Exhibit B

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, MICHIGAN,	.	Docket No. 13-53846
	.	Detroit, Michigan
	.	August 2, 2013
Debtor.	.	10:01 a.m.
. . . . .		

HEARING RE. STATUS CONFERENCE
MOTION OF DEBTOR FOR ENTRY OF AN ORDER (I) AUTHORIZING THE ASSUMPTION OF THE CERTAIN FORBEARANCE AND OPTIONAL TERMINATION AGREEMENT PURSUANT TO SECTION 365(a) OF THE BANKRUPTCY CODE, (II) APPROVING SUCH AGREEMENT PURSUANT TO RULE 9019 AND (III) GRANTING RELATED RELIEF (DOCKET #17); MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER (A) DIRECTING AND APPROVING FORM OF NOTICE OF COMMENCEMENT OF CASE AND MANNER OF SERVICE AND PUBLICATION OF NOTICE AND (B) ESTABLISHING A DEADLINE FOR OBJECTIONS TO ELIGIBILITY AND A SCHEDULE FOR THEIR CONSIDERATION (DOCKET #18); MOTION OF DEBTOR FOR ENTRY OF AN ORDER APPOINTMENT KURTZMAN CARSON CONSULTANTS, LLC, AS CLAIMS AND NOTICING AGENT PURSUANT TO 28 U.S.C., SECTION 156(c), SECTION 105(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 2002 (DOCKET #19); AND MOTION OF DEBTOR, PURSUANT TO SECTION 1102(a)(2) OF THE BANKRUPTCY CODE FOR ENTRY OF AN ORDER DIRECTING THE APPOINTMENT OF A COMMITTEE OF RETIRED EMPLOYEES
BEFORE THE HONORABLE STEVEN W. RHODES
UNITED STATES BANKRUPTCY COURT JUDGE

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THE CLERK: All rise. Court is in session. Please be seated. Case Number 13-53846, City of Detroit, Michigan.

THE COURT: Good morning, everyone.

ATTORNEYS: Good morning, your Honor (collectively).

THE COURT: We are going to begin as we did the last time with the admission of an attorney to the Bar of the Court. Who would like to be admitted? Step forward, please.

MR. ROSSMAN: Good morning, your Honor. Jeff Rossman.

THE COURT: Mr. Rossman, are you prepared to take the oath of admission to the Bar of the Court?

MR. ROSSMAN: Yes, I am.

THE COURT: Please raise your right hand --

MR. ROSSMAN: Sorry.

THE COURT: -- carefully. Do you affirm that you will conduct yourself as an attorney and counselor of this Court with integrity and respect for the law, that you have read and will abide by the civility principles approved by the Court, and that you will support and defend the Constitution and laws of the United States?

MR. ROSSMAN: I do.

THE COURT: Welcome, sir.

MR. ROSSMAN: Thank you, your Honor.

THE COURT: Before we begin our status conference today, I need to remind everyone of the rules for the use of

cellular phones in the courthouse and the rules for those listening to these proceedings through CourtCall. District Court Local Rule 83.31(f) governs the use of cellular phones and other communication devices. An attorney appearing in connection with any judicial proceeding may bring a phone into our federal court facility. However, the phone cannot be used at all while in a courtroom. In other words, texting, talking on the phone, recording, or taking pictures of the proceedings is not permitted in the courtroom. Attorneys may use cellphones in the approved attorney conference room on the second floor of this building.

Now let me address the use of CourtCall to listen in on these proceedings. Its use is restricted to attorneys and their clients who are parties in this case. CourtCall is not to be used or accessed by the media or the public. The law prohibits the simultaneous public broadcast of court proceedings. The Court expects that, as officers of the court, attorneys will respect this restriction. The Court understands that this is an important and valuable service, but it can only continue to make this service available if this restriction is observed. The audio recording of all court hearings will be posted on the court's website very shortly after the hearings are concluded and will in that way be available to the media and the public without charge.

Okay. So now turning to our status conference, I'm

going to shuffle the order of the agenda just a little bit. I've decided to do the review by me of the Court's limited role in Chapter 9 cases first, and then we'll do the items -- the rest of the items on the status conference agenda pretty much in the order stated, and then, of course, we will consider the motions that are on the calendar for today.

It is important for the parties and the public to understand the very limited role that a Bankruptcy Court and a bankruptcy judge play in a municipal bankruptcy case under Chapter 9 of the Bankruptcy Code. Let me first try to describe what that role is and then discuss what that role is not. Primarily, the Court's role in this case is to resolve the legal issues that the parties raise as the city moves through this Chapter 9 process. In general, there are two main challenges that we can readily expect the city to face in this case. The first is to establish that it is eligible for Chapter 9 relief. If it meets that challenge, then its next challenge is to establish that its plan to adjust its debts meets the requirements for confirmation under Chapter 9 of the Bankruptcy Code.

Beyond those two major issues, the parties may present other issues to the Court during the case. These may involve whether to approve the city's assumption or rejection of its contracts, including its union contracts; whether to grant creditors relief from the stay against litigation that

the Court and the law have imposed; whether to approve of certain settlements; whether to approve of certain kinds of proposed borrowings; and, finally, what dates and deadlines to set as we move the case to its conclusion, whatever that conclusion might be.

In addition, the Court sees three other roles for it. The first is to facilitate, to the greatest extent possible, the consensual resolution of disputes. To that end, I have proposed a process of mediation, which I will discuss with counsel later. The second is to apply procedures of judicial management in this case that will meet the requirement to -- of Rule 1 of the Federal Rules of Civil Procedure for the just, speedy, and inexpensive determination of this case. The circumstances of this case make that requirement imperative and one that the Court intends to fulfill with the highest degree of commitment, but the Court, of course, cannot do this alone. In fulfilling this commitment, the Court requests input from the attorneys as well as their full cooperation and, indeed, their partnership. In a few minutes, the attorneys and I will discuss what dates and deadlines should be set in this case so that we can meet the requirement for the just, speedy, and inexpensive determination of this case.

The third additional role for the Court is to recognize and appreciate the enormous public interest in this

case and to facilitate, to the greatest extent possible, public access to the Court's proceedings. However, there are certain restrictions that the Court must ask the public and the media to accept. Some of these restrictions are imposed by law. For example, as I said before, the law prohibits the simultaneous broadcast of federal court proceedings. Other restrictions result from security concerns, and we request your patience in our security screening process as this helps to protect all of us. Other restrictions will have to be imposed just to allow the process to function properly. For example, when and if disputes are submitted to mediation, that process must be both closed to the public and completely confidential in order for it to have any chance of success. Finally, there are simple practical limitations, so, for example, we only have so much space available in this courtroom and for overflow courtroom viewing.

Now let me address what the Court's role is not and what the Court will not do. In this Chapter 9 case, as in all others, the city's elected and appointed officials and officers remain in full control of the city and its operations. Whatever their responsibilities for running the city before the case was filed, they still are. As a result, the Court has no role to play in managing or running the city or any of the services it provides. Any compliments, complaints, suggestions, or requests regarding city services

should continue to be directed to the city. There is nothing the Court can do about any of those matters. The Court does not displace city government in any respect, and nothing in Chapter 9 gives the Court any authority to hire, fire, or supervise anyone in city government. The city's officials are not accountable to this Court for how they run the city.

There is a second way in which it is important to understand the limited role of the Court in this case. Chapter 9 of the Bankruptcy Code states that it is the city's responsibility to propose and file a plan. The Court's role is only to determine whether the plan that the city proposes meets the requirements of Chapter 9. It is not the Court's role to dictate to the city what its plan should state or even to suggest anything about it. That is entirely for the city to decide after, of course, discussing and attempting to negotiate the plan with its creditors.

Any questions about what the Court's role is or is not? Okay. So let's now then move on to the next item on our status conference agenda. I'll ask the representatives of the city to address the Court regarding the status of the filing of the list of creditors under Section 924 and any potential amendments. Sir.

MR. HEIMAN: Good morning, your Honor. David Heiman from Jones Day on behalf of the city. I hope the microphone is working properly after the attack on it, but what -- and

thank you for those comments. They're very helpful, indeed, especially about the plan process and understanding that you have proposed a plan deadline -- a plan filing deadline, which I will address in a few minutes. As you have suggested, I will take these one at a time. I assume that you will want to hear from others, to the extent they wish to be heard.

THE COURT: Yeah. At this point I just need the record to state the city's compliance with the filing of the list of creditors and if you intend or foresee any amendments to it.

MR. HEIMAN: Well, we did, I'm happy to say, file the list of creditors last night, so that's the easy part. I cannot speak really -- it's 3,500 pages, so I cannot speak to whether there are amendments. Actually, this list itself was an amendment for changing of addresses and the like --

THE COURT: Um-hmm.

MR. HEIMAN: -- and so I hope it's complete, but we may find during the course of the case that we will supplement it, so I don't --

THE COURT: Okay. My only encouragement to you would be that if you determine a need to amend that list, you do so promptly.

MR. HEIMAN: Thank you, your Honor. We will do that.

THE COURT: So the next item is the disclosure by the city of the status of its negotiations with creditors.

MR. HEIMAN: Yes, your Honor. That might take a few more minutes than the last item.

THE COURT: Um-hmm, yes.

MR. HEIMAN: I'd first like to say we all know that we are in a very serious situation here, so rather than drag everybody through the blow-by-blow of how we got to our proposal and so forth, I'd like to just refer the Court and others to the Orr declaration that --

THE COURT: Um-hmm.

MR. HEIMAN: -- I think does that in great detail at pages 52 to 73. I would like to say that there was a significant effort that went into preparing that, and that was followed up by meetings, many meetings with creditors, informational and issue-oriented meetings. The proposal we made, as your Honor knows, was 128 pages. It was made public on the city website for all to see, and from our standpoint we feel we've done our best to basically lay open the relevant aspects of the city's finances to everyone, most particularly to our creditors. In that presentation, we --

THE COURT: I have to interrupt you. I don't intend this to be your opening statement on the issue of whether your client has negotiated in good faith because that's an eligibility issue. What I really want to hear is what the

current status is and what negotiations, if any, have taken place since the case was filed.

MR. HEIMAN: Yes, your Honor. We have had discussions in the last week and have discussions even scheduled today --

THE COURT: Um-hmm.

MR. HEIMAN: -- and next week, so discussions are continuing. However, in terms of the status of discussions, it's clear that there are significant differences between the city and its unsecured creditors distinguished from its secured creditors.

THE COURT: Um-hmm.

MR. HEIMAN: Those differences are not surprising based on the limited resources that the city has available, so in our book -- and that's what I was getting to -- there was a proposal made, so our proposal is out on the table. I don't mean this in terms of eligibility, and I certainly don't want to characterize any creditor positions here. That's not my objective. What I'd like to say is of course we are continuing to talk. We will hopefully continue to talk virtually every day as we get through this case or attempt to get through this case, but there are significant differences that we feel are going to be difficult to bridge. We believe those differences, again, are based on our limited resources to pay our creditors and their perspective on their

own positions and rights with respect to their claims, and so --

THE COURT: How would you -- how would you characterize your client's willingness to continue to try, however, to bridge those differences?

MR. HEIMAN: I would say more than a willingness, your Honor, there is a commitment not only by Kevyn Orr and other people in the city but by his team of professionals to make itself available and, in fact, pursue discussions, as I say, every day of the week that we can with every constituency. And I would also like to add I don't want to mislead anybody. I believe that we've had constructive discussions and -- civil and friendly, and yet when it comes to the point of saying, "How do you view our proposal?" no one likes it, and that's not surprising. It requires significant -- our proposal requires significant across-the-board debt relief from our unsecured creditor body. So that is where we are, and if I may, I know this is another agenda item, but we welcome the idea of mediation because there are very serious issues here. We have, as I say, limitations, and, again, we would like to talk to creditors consistently, constantly. We have meetings scheduled even today and several meetings scheduled next week, and we will continue to schedule meetings, but the --

THE COURT: All right. Well, you know, I'll

certainly submit -- request your more specific comments regarding mediation as well as those of others when we get to that item on the agenda.

MR. HEIMAN: Okay. Thank you, your Honor.

THE COURT: Let's turn our attention to the proposed dates and deadlines item on the agenda, and I want to focus first on the schedule for resolution of the issue of eligibility. Before we set dates and deadlines and the extent of discovery, however, it would be helpful for me to get whatever sense I can from the attorneys involved as to what the eligibility issues will be, and so from the papers that have been filed so far, I think we can safely assume that there will be at least these two: one, did the city negotiate in good faith; and, two, did the governor properly authorize the Chapter 9 filing in light of what is argued to be the constitutional protection of pension rights. Do you or does anyone here see any other eligibility issues?

MR. HEIMAN: I think, your Honor, first of all, let me say that Mr. Bennett is going to address the motion that requests the eligibility schedule as well as your proposed --

THE COURT: Okay.

MR. HEIMAN: -- deadlines, so he may have more to say about this, but we believe that the statutory requirements for filing are going to be at issue, and, of course, we have our position on that. And also we understand

the governor's authority issue, especially after the last couple of weeks, so we are aware of that, but Mr. Bennett may have more to say about that at the time we get to the motion. Okay.

THE COURT: Okay. So let me ask any other counsel, can any of you foresee any other eligibility issues?

MR. LAROSE: Good morning, your Honor. Lawrence Larose representing Assured Municipal Finance Guaranty Corporation, insurer of approximately $2.5 billion of various series of the city's indebtedness.

Your Honor, with respect to authorization -- we have made no decision as to objecting to eligibility, but with respect to authorization, your Honor, I respectfully suggest that it goes beyond the issue of pensions.

THE COURT: In what sense, sir?

MR. LAROSE: Compliance with the underlying Act in connection with the authorization of the Chapter 9.

THE COURT: Can you be more specific?

MR. LAROSE: No. As I said, your Honor, I'm not prepared to make an objection today on that issue. I just need to preserve it for the record.

THE COURT: Okay.

MR. LAROSE: Thank you.

THE COURT: Well, I don't want anyone to think that they need to address me at the microphone to preserve

anything for the record. You will be given an opportunity to object. That will be your deadline to state your eligibility objections.

MR. LAROSE: Thank you, your Honor.

THE COURT: So we don't need that parade.

MS. LEVINE: Your Honor, I rose before, so I don't -- Sharon Levine, Lowenstein Sandler. We really were concerned that there might be a limitation on some of the reservations. We gave the Court a preview in the brief in support of 105, and we don't need to burden the record today.

THE COURT: Okay. All right. Mr. Gordon.

MR. GORDON: Thank you, your Honor. Robert Gordon on behalf of the Detroit Retirement Systems. At the risk of not answering the question that you just asked, I just want to make sure from a procedural standpoint whether we're going to be able to go back to other questions that you've asked of Mr. Heiman that we might want to respond to, such as the status of negotiations. I didn't know if you wanted to hear from parties after you've gone through the list or whether we can weigh in on those issues for the Court at this time.

THE COURT: I don't really feel the need to have everyone respond to that. What I wanted from that was what I got, which was the city is willing to negotiate.

MR. GORDON: And I'm certainly not here to get into a polemic about it, but I wanted to make sure the Court was

aware of the status in a little more detail at the right time because obviously one of the things that the Court is considering is mediation, and I would like to have the opportunity to at least apprise the Court of why the discussions are where they are at this point with parties and why perhaps mediation may not be appropriate just yet, so --

THE COURT: Okay. Let's save that for --

MR. GORDON: Okay.

THE COURT: -- that agenda item then.

MR. GORDON: Thank you, your Honor.

THE COURT: And I will want to hear from you then regarding that.

MR. GORDON: Thank you, your Honor.

THE COURT: Any other thoughts -- go ahead, sir -- on what issues may arise in the context of eligibility?

MR. BENNETT: I'm Bruce Bennett from Jones Day, your Honor, and I have responsibility for the eligibility side of this today.

THE COURT: Okay.

MR. BENNETT: My reading of the situation in terms of where the expected objections are is the same as yours from the pleadings that have been filed. We certainly expect the objection relating to the constitutionality of the statute, and we certainly expect the objection relating to good faith. I'm not aware of the objection Mr. Larose is

foreshadowing. One of the reasons for an early deadline for exclusivity objections, which will hopefully be -- I think we expect them to be genuine substantive objections -- is that it will help every subsequent step in the process if we have a clear and complete statement of what the objections are as rapidly as possible.

THE COURT: Okay.

MR. BENNETT: On the schedule in particular, the schedule is fine with us. I can report -- I want to report two things. There were really two objections to the whole scheduling process that were actually filed. One was did we really need to receive e-mail service of objections or would we just take them off ECF.

THE COURT: Hold on that one. We'll get to that later.

MR. BENNETT: Okay.

THE COURT: Right now I just want to talk about dates and deadlines.

MR. BENNETT: Okay. The only comment I'll talk about dates and deadlines is that we -- in private discussions, there is one party that has what I think are genuine special circumstances affecting their ability to comply with the August 19th and 23rd dates, and under the assumption that these dates stay the way they are, we've reached a separate accommodation that would work for the

debtor and for that party, and I guess I just wanted to make clear that -- or ask, your Honor, that when you did set deadlines, was it possible to make those kinds of informal adjustments where two sides thought they were appropriate without offending the overall schedule?

THE COURT: Well, the answer is most likely yes so long as it doesn't result in the delay of the hearing itself.

MR. BENNETT: And this one doesn't, and I think that's an appropriate guideline, and we will govern ourselves by that.

THE COURT: Okay. Fair enough. If those are the two primary issues -- and I recognize that there may be others that parties may assert in the meantime -- I have to ask with all sincerity, because you all know this case better than I do, what is the need for discovery, and what is the scope of the discovery that is needed? Now, let me, before you all answer that question, give you my uninformed analysis, admittedly uninformed analysis.

On the issue of whether the governor's authorization was proper, it strikes me that that is entirely a legal issue, and if anyone believes otherwise, I'd obviously be interested in hearing that, but I think we can all agree that the governor's authorization did not include a restriction on the city's ability to seek an impairment of pension rights, which is the fact that raises the issue.

Turning to the good faith negotiation issue, I have a sense -- and I could be wrong -- that anyone who might object on that ground has already firsthand knowledge of what the negotiations were or weren't, so, again, I would ask from a totally uninformed perspective what the need for discovery is. I ask this question because if there's not a need for discovery, we're going to have to think about even advancing eligibility from where I have tentatively suggested it.

MR. BENNETT: Your Honor, since we would concur with your assessment, I'll cede the podium to others for now.

THE COURT: Okay.

MS. CECCOTTI: Your Honor, I didn't mean to send Mr. Bennett away prematurely, but I wasn't clear exactly when you wanted us --

THE COURT: Now.

MS. CECCOTTI: -- to rise.

THE COURT: Please.

MS. CECCOTTI: Okay. Well, speaking for the UAW, I think what we have in the record certainly on the bankruptcy -- from the city's filings we have some, you know, documents that were filed in terms of their qualification statement, in terms of a memorandum of law, various declarations. I don't know that -- certainly for the UAW I don't think -- I wouldn't want the Court to think that we've scratched the surface in trying to unpack those and determine

to what extent any discovery is needed, so I would caution against perhaps assuming more than the parties or at least certainly we have had an opportunity to do. We expected to discuss with the Court, as we're doing today, a schedule for eligibility but not in the context of -- or not informed by anything other than an initial look at the papers that have been filed, so while it may be true that some or more of us were present at certain meetings, looking at the totality of what the city has filed, I think we would really need to take a harder look at that before we could say with any certainty that no discovery is needed really on any of the qualifications. So I realize that that is a rather general statement, but I would not want the Court to be misled in thinking that we are prepared certainly today with a, you know, sort of fully indexed and annotated view of the papers that the city has filed and a sort of plan of how to get to -- from those papers to a position that we might take let alone to a litigation schedule position.

MS. LEVINE: Your Honor, for the record, Sharon Levine, Lowenstein Sandler. We would concur that the extent of discovery that we would need has not yet fully availed itself to us, but, at a minimum, to the extent that the city intends to rely on declarations to offer evidence in support of eligibility, we would want to take a close look at that evidence and probably seek documents and depositions with

regard to those proposed witnesses.

In addition to that, one of the things that's probably going to come to light as we move forward in this process, your Honor, is there may be a definitional issue and a dispute with regard to what exactly constitutes negotiations because our view is that the meetings that have taken place to date have been more presentations without an opportunity for give and take. And in addition to that, your Honor, in reviewing the information that's in the data room, there's information that we would need even to evaluate just those presentations that's not yet in the data room, so if a negotiation over this kind of an economic situation goes as we've seen others go, the first step of the negotiation process is the diligence, so, you know, we appreciate the fact that the city has populated a data room. There's always stuff that has to get added to it and/or created. We haven't seen the soft model, if you will, of the debtor's business plan. And after that then there is the dispute that you have to work through with regard to what the assumptions are that underlie that business plan before you can get to whether or not the asks and the gives are appropriate or not appropriate, and we would respectfully submit that in addition to just the litigation aspect of the trial on eligibility, there may be a second silo of discovery that has to do with legitimate diligence requests in connection with

facilitating better and more meaningful negotiations or exchanges of information perhaps facilitated by the mediator who may be helping us with process as well as substance in order to get through this process constructively. Thank you.

THE COURT: Thank you. That is a very helpful comment to make. Everyone in this room who has been in more than one bankruptcy case knows that there's very little about a debtor that's irrelevant to the bankruptcy case and very few requests that creditors make for information that is burdensome, and I am sure the city and its counsel understand that and will act accordingly.

MR. BJORK: Good morning, your Honor. Jeff Bjork from Sidley Austin on behalf of National Public Finance Guarantee. National insures about 2.5 billion of the city's debt obligations. I just want to echo the comments of counsel. We have been exchanging information requests with the city. We've been in major discussions with them about information we need, some of which actually goes to issues that may be pertinent to eligibility, some of which goes to issues that are beyond the scope of eligibility. While those discussions are continuing, what we had talked with Mr. Bennett about was potentially allowing us to participate in the discovery with eligibility because we think on the schedule it's tight. We support the schedule. We also think it might be the most efficient way to get the information

that, from our perspective, will help us better understand where this restructuring is going and, to your Honor's point about appointing a mediator, I think better inform the parties quicker on -- sooner in terms of where that mediation may be going. So just on that, what we had proposed, just one change in the schedule would be that the pretrial brief that you've set forth in terms of timing actually be the substantive objection that would be tied to any evidence that was intended to be presented at trial based upon the discovery policies itself.

THE COURT: I'm not sure I followed you. What is your request?

MR. BJORK: My request, your Honor, would be that the August 19th deadline --

THE COURT: Yes.

MR. BJORK: -- they have proposed that it be objections tied to specific facts. Our proposal is that we could participate in the eligibility based -- eligibility discovery based upon a reservation of rights to the extent we think that there are issues with an objection to the extent necessary based upon the facts to be determined through discovery supplemented and filed as part of the pretrial brief, so rather than -- so essentially, your Honor, what you end up with is one objection tied to the record as opposed to objection, discovery, and then a supplemental objection.

THE COURT: That makes me nervous, uneasy, because if I hear you right, what you're saying is you want to do discovery first and then decide whether and to what extent to object to eligibility?

MR. BJORK: We want to make a fully informed decision based upon the discovery that we determined and received from the city as to whether there is any grounds to object to eligibility, yes.

THE COURT: That's -- sir.

MR. BENNETT: We are uncomfortable as well. I think that there was a number of things said. There's a lot of information about the city that's already available, and we log each and every request, and we respond to requests as we can, and if there are disputes about that, we can deal with it, but given that there's so much information available, it kind of is hard for us to understand how it is that one would not know the grounds on which they are objecting to eligibility at this time. We fully understand that facts currently unknown could conceivably surface later, and we would certainly not object if a fact unknown today found its way into a subsequent brief, but we think the August 19th deadline should require and call for an objection -- all grounds stated and facts then known that support the objection. And that's the way to narrow disputes and to have an economical piece of litigation going forward. Short of

that, it could be a wide-ranging procedural disaster that would be ridiculously expensive and we think should be avoided.

THE COURT: I agree, counsel. There certainly are circumstances in which the law permits amendments to pleadings. They are limited. They apply here, but as a general matter, the Court wants to set a firm deadline for the filing of objections to eligibility.

MR. BENNETT: Understood. Thank you, your Honor.

THE COURT: Mr. Gordon.

MR. GORDON: Thank you, your Honor. Again, Robert Gordon on behalf of the Detroit Retirement Systems. I will focus just on the 109(c)(2) issue for a moment because Ms. Levine already commented on the 109(c)(5) issue of good faith and what have you. As to the 109(c)(2) issue, I certainly, in all candor, agree with the Court that it could appear that it is strictly a legal issue. To that end and consistent with the comments I've just heard, it would seem to us -- and this is something that is consistent with what we filed yesterday afternoon -- that in addition to a deadline for the filing of an eligibility objection, there ought to be a deadline for the city to then file some kind of a response, and then we could see if there is any kind of a discovery issue that needs to be addressed.

THE COURT: Um-hmm, um-hmm, yeah.

MR. GORDON: So that's my suggestion --

THE COURT: I saw that you submitted that, and that was not in there, not by intent. It just didn't occur to me to put that in there, so I would like to hear from the city regarding that question. Thank you.

MR. GORDON: Thank you, your Honor.

THE COURT: So the question is should we have a deadline for the city to file a written response or a series of written responses to the eligibility objections that are filed?

MR. BENNETT: I certainly don't have a problem filing any pleading that the Court thinks would be helpful to it.

THE COURT: Um-hmm.

MR. BENNETT: I do think it's important to note -- and I hope people didn't miss it in the flurry of filings -- that we had filed a statement of qualifications and a fairly extensive --

THE COURT: Um-hmm.

MR. BENNETT: -- brief on the subject of eligibility already --

THE COURT: Um-hmm.

MR. BENNETT: -- so it's not as if our position is a mystery.

THE COURT: Um-hmm. All right. I want to give

serious consideration to this and see how it can be worked into the schedule. Okay. But to refocus us here, the question is what about discovery on the issue of eligibility?

MS. PATEK: Your Honor, Barbara Patek appearing on behalf of the public safety unions. I would echo Ms. Levine's comments with respect to the definitional question on negotiation. We concur with the deadline. We think this is an aggressive and tight scheduling order as it stands now. We're prepared to abide by it subject to -- you know, for good cause shown, and it sounds like the debtor has already acknowledged and agreed to that with one other party, so with that caveat --

THE COURT: Um-hmm.

MS. PATEK: -- and the issue of the city's response being considered, we're prepared to go forward.

THE COURT: Um-hmm. Anyone else? Okay.

MR. BENNETT: On the subject of good faith, I agree with your Honor that it doesn't take a great deal of exploration to figure out whether the parties did or did not act in good faith, and I would, frankly, think that there's --

THE COURT: Well, whether the city negotiated in good faith.

MR. BENNETT: Well, that's true; however, if your Honor reads the cases, you'll find that the emphasis quickly

shifts to what both sides were doing because it takes --

THE COURT: Fair enough, but the eligibility requirement --

MR. BENNETT: Okay. And so --

THE COURT: -- is the city.

MR. BENNETT: -- just to lay out very briefly, Mr. Heiman, I think quite properly -- I'm going to do the same thing. We're very reluctant to say what our negotiating partners said to us. We feel comfortable telling you everything about what we said, and, frankly, much of what we have said is public. It's the other side that your Honor does not know about and has to find out about on some basis to make an assessment.

THE COURT: Fair enough.

MR. BENNETT: And I am submitting that, in fact, if you had before you what the city proposed and what the responses were and were there responses in all circumstances in the negotiating period that we tried hard to make productive, I think you would, frankly, have all you need, so I do think that in the context of parties who are going to object to good faith of the city in the negotiating process, you need some form of an arrangement, I think, to benefit your decision-making to find out exactly what that party said in response to the city's very public proposal.

THE COURT: Okay.

MR. BENNETT: Thank you.

THE COURT: Ms. Brimer. One second, sir. Mr. Morris, I do want to hear from you, so stand by.

MR. MORRIS: All right. I was told I need to get the --

MS. BRIMER: Good morning, your Honor. Lynn M. Brimer appearing on the Retired Detroit Police Members Association. It is an association of approximately 240 retired Detroit Police Department personnel who either are currently or will in the future collect pursuant to the police and fire-fighters pension.

I raise one issue with respect to the Court's deadlines and the comments this morning, and that is up later this morning, your Honor, is an issue with respect to whether or not a committee will be appointed to represent the retirees. And there are many issues that we have with respect to that motion, but with respect to the Court's deadlines, the concern I raise right now and just want to be sure the Court is cognizant of this is that if there is -- if the Court does determine that --

THE COURT: Um-hmm.

MS. BRIMER: -- it is appropriate and within the authority of the Code for the trustee to appoint a committee, these deadlines may be extremely aggressive because it's very possible that a committee would not be constituted, and

counsel and what other -- whatever other professionals would be required would not even be in place by this deadline, so I just --

THE COURT: Um-hmm.

MS. BRIMER: -- would like to ensure that the Court keep that in mind when evaluating the deadlines.

THE COURT: Right. I do want to be very sensitive to that issue and build into our process an adequate opportunity for everyone to be heard, of course.

MS. BRIMER: Thank you, your Honor.

THE COURT: Thank you. Sir. And then I'll hear Mr. Morris next.

MR. GOLDBERG: Okay. I just have a brief question, your Honor. My name is Jerome Goldberg, and I'm on --

THE COURT: Mr. Morris, there's a seat for you here. Go ahead, sir.

MR. GOLDBERG: And I represent party of interest David Sole. I just had a brief question, and I excuse the Court for my own ignorance in the procedures in this matter, but the deadline to serve written discovery requests for August 23rd, just for my own clarification, that specifically is discovery requests relative to the eligibility question; is that correct?

THE COURT: Yes. All of this discovery is the discovery needed for the eligibility issues that are raised

in the objections.

MR. GOLDBERG: Thank you, your Honor.

THE COURT: Mr. Morris.

MR. MORRIS: Your Honor, Ms. Brimer made my point.

THE COURT: Oh, okay. Then you're all set. Would anyone else like to be heard on this issue of the necessary discovery? All right. I will take your comments under advisement and issue an appropriate scheduling order. There are other deadlines. We've been talking about deadlines regarding eligibility. I suggested that we might want to have a deadline for the city to file motions to assume or reject executory contracts, including collective bargaining agreements. Sir.

MR. HEIMAN: Yes. Thank you, your Honor. I think I can address that pretty quickly. Most of our collective bargaining agreements have expired, the large majority. We have six or seven still remaining in connection with the work at Detroit Water and Sewer District. It is our view at this point that we will not seek -- we will not need to seek court relief on those --

THE COURT: Um-hmm.

MR. HEIMAN: -- and we will advise you at our earliest opportunity if that should change.

THE COURT: Okay. What about other kinds of executory contracts, leases, et cetera, et cetera?

MR. HEIMAN: We have nothing on tap today for that in terms of deadlines. As your Honor may know, we have a list of noncore assets that we're dealing with. They include water and sewer and the Coleman Young Airport, et cetera, et cetera, the Institute of Art. There is a list in our book and our -- and a description about them, and we hope on some of them, at least, to be able to bring something to your Honor that will be beneficial to the estate. We are not anywhere near prepared to do that today, so I don't think we have anything today specifically in that area.

There is one that comes to my mind. There is one issue right now, and I'm reluctant to raise it slightly, but I feel I have to so that there's no question of the city somehow waiving a right to object, but, as your Honor may know, the attorney general has filed a notice of appearance which was preceded and followed by public statements. Without going into a lot of detail, that confuses us a bit about the role the attorney general expects to take in this case. We want to try to unravel that and not come to your Honor unless we have to, but that is something that we have to look at, and, you know, we won't need any special hearings. I know that you have a schedule on omnibus and so forth that, by the way, is perfectly fine with us, so with that -- and, you know, we're talking about some post-petition financing that we'd probably like to pursue, and that

requires --

THE COURT: Um-hmm.

MR. HEIMAN: -- a long explanation as well, and we would hope that sometime in the near term we will know when we would like to --

THE COURT: Um-hmm.

MR. HEIMAN: -- seek your Honor's views of that, but, again, we're not ready today to suggest any deadlines.

THE COURT: All right. In other kinds of reorganization cases, as you well know, courts do commonly set a deadline for the assumption or rejection of executory contracts so that the plan confirmation process doesn't get delayed when such issues are raised just before confirmation, so I guess I'm willing to grant you some latitude here, but I don't want to get to plan confirmation and then run into issues of what contracts are going to be assumed or rejected.

MR. HEIMAN: Your Honor, you raise a very good point, and we have been looking at executory contracts. Without belaboring the issue, it's a huge job in this city to look at --

THE COURT: Right.

MR. HEIMAN: -- those, and at this point we have nothing specific that we know of that we need to bring to you, but there are -- in what I call the asset columns there are some leases and arrangements and whatever that at some

point -- I am not talking about, you know, like next year -- at some point hopefully this year we will bring to your attention if --

THE COURT: All right.

MR. HEIMAN: -- we think we need to.

THE COURT: Well, I think you understand my concern here.

MR. HEIMAN: Yeah. And I appreciate it, and we will make a special effort to accelerate our evaluation of those executory contracts. Shall I go on with your agenda, your Honor?

THE COURT: Well, let me just ask the question of really everyone in the room point blank. I have suggested these discovery deadlines, the date for a final pretrial conference, and a date to begin the trial on eligibility. Assuming I agree that discovery is required, and I'm inclined to at this point, based on the record we have so far, does anyone object to any of those dates on lines 8, 9, 10, and 11 of my Notice of Proposed Dates and Deadlines?

MR. HEIMAN: Sorry.

MS. CECCOTTI: Your Honor, once again Babette Ceccotti, Cohen, Weiss & Simon, LLP, for the UAW. I'm not so sure I'm rising specifically to object to those particular items, but I guess with the open-endedness of -- despite the efforts here today to try to outline for your Honor some

discovery issues -- and I should also point out that from our perspective, some of the discovery may extend, you know, beyond the city, so I'm wondering whether it would be helpful if the Court were to perhaps think about the discovery schedule and then perhaps build on that because there may not be enough time. And, again, I don't think anyone here is looking to delay any of this unduly, but there's a lot here, and one of the things that I'm sure is not in anyone's interest is to have some of these issues rushed. One doesn't know what one is going to find in discovery, so I --

THE COURT: Well, let me just ask you. Are any of the other discovery deadlines that I proposed here, in your view, too aggressive?

MS. CECCOTTI: Yes. I think they might be too aggressive. They might be too aggressive.

THE COURT: Which one or all of them?

MS. CECCOTTI: Well, again, if we're looking at the whole schedule as a package, the whole schedule is fairly aggressive in and of itself. In addition -- and we've already had the reference made to the retiree motion -- we don't know exactly how your Honor is going to view that motion in the context of the schedule, and there have been some suggestions that it would be worth considering this schedule in the context of where your Honor ends up on the retiree motion, so I wonder if it might be possible to

perhaps revisit the totality of the schedule, at least the block of time, after your Honor has had a chance to hear the parties on the retiree motion. It might actually inform the Court rather than to try to set something now and then try to shoehorn the retiree motion -- the retiree committee process, assuming your Honor authorizes the motion, into a schedule that your Honor is saying now it's just a scheduling suggestion.

THE COURT: All right. Does anyone else want to be heard on the specific dates and deadlines that I have set forth here?

MS. PATEK: Your Honor, I apologize. Not specific dates and deadlines, but I want -- if I may go back for a moment to the 365 issue just --

THE COURT: Okay.

MS. PATEK: -- for the matter of preserving something. I represent the public safety unions. Barbara Patek. One of those, the Detroit Police Officers Association, to my knowledge and understanding -- and I'm not up to the minute because I'm not their labor lawyer -- does have a contract in place, at least as of a couple of days ago, so I don't know if that perhaps with everything they have on their plate was simply off the city's radar screen, but we were looking -- I don't have a particular deadline to propose, and I just want that noted for the record.

THE COURT: Mr. Heiman.

MR. HEIMAN: Your Honor, that is inconsistent with our understanding. There may be a CET, what's -- you know, was something unilaterally opposed by the city, but we don't view that as an executory contract, so we don't think that that is correct that there is a CBA on police, fire, or otherwise that is extant right now.

THE COURT: I'm hearing buzzing in the loudspeaker system, which most commonly means someone has their telephone on. Please check your telephones and be sure they're off for me.

MR. HEIMAN: I think I might have changed -- do you still hear it?

THE COURT: Oh, you moved the microphone, and maybe that solved the problem. Well, okay. If that's what it took, great.

MR. HEIMAN: I have -- I am now on 3(b) of your agenda. Is that correct, your Honor, the plan filing date?

THE COURT: Well, before we get to that, I want to ask whether there are any other potential motions or adversary proceedings that you or anyone else foresees that we should address before we get to the issue of setting a plan deadline. Any other motions --

MR. HEIMAN: Not other than what I --

THE COURT: -- or adversary proceedings?

MR. HEIMAN: No, your Honor, not --

THE COURT: Anyone else foresee any other kinds of motions or adversary proceedings that it would be helpful to know about now and perhaps set a time schedule for? Sir.

MR. HACKNEY: Good morning, your Honor. Stephen Hackney on behalf of Syncora. I wanted to rise briefly to say that it is possible that there will be additional adversary proceedings arising out of the COPs and swap structure that I think the Court has read --

THE COURT: Um-hmm.

MR. HACKNEY: -- probably more than it wants to about, but there is already --

THE COURT: Probably.

MR. HACKNEY: Probably. Already litigation has been initiated by the city against Syncora. Syncora has also initiated litigation against the swap counterparties in New York.

THE COURT: Um-hmm.

MR. HACKNEY: I think the Court has been made aware of that.

THE COURT: Okay.

MR. HACKNEY: And I cannot be more specific other than to say that --

THE COURT: Right.

MR. HACKNEY: -- it's entirely possible as you're

resolving -- as the various courts are resolving where this can proceed, there may be additional adversaries that arise out of that structure.

THE COURT: Right. Good. Thank you for reminding me of that.

MR. HACKNEY: Thank you, your Honor.

MR. HEIMAN: I'm sorry, your Honor. I actually appreciate that supplement because there may be some motion or adversary arising out of that debt that's not with respect to what's already being litigated, so --

THE COURT: Okay.

MR. HEIMAN: -- we don't know today.

THE COURT: Well, if so, that would happen fairly soon and not likely to impact the plan confirmation schedule.

MR. HEIMAN: Right.

THE COURT: All right. Anyone else with any other possible motions or adversary proceedings? I have one I'd like to suggest to you, although we'll address that when we get to the issue of committees. All right.

Let's talk about the deadline to file a plan. I suggested March 1st.

MR. HEIMAN: Your Honor, we enthusiastically accept that deadline. I would only supplement that acceptance with a statement of desire on the part of the city, if I may.

THE COURT: Please.

MR. HEIMAN: And that is that we hope -- and our view is that time is our enemy and that the facts are not going to change no matter how long we wait, whether it's on eligibility or filing of a plan, so we intend or hope to run our process on parallel paths so that we can move as swiftly as possible through this case, and, therefore, it is our hope and desire that we will file a plan by year end, which is well in advance of the deadline you have set. Now, there are a lot of issues surrounding that, but that is our own target, so --

THE COURT: Um-hmm. All right. Well, it would be the Court's intention when a plan is filed to reconvene a conference like this to set a schedule for litigating whatever the issues are regarding that plan.

MR. HEIMAN: Thank you, your Honor.

THE COURT: Would anyone else like to be heard regarding the deadline that the Court proposed? All right. Thank you.

MR. HEIMAN: Next is item four, the mediation proposal, your Honor.

THE COURT: Yes. Let's turn our attention to that. Before you commence, I have a little introduction to give. The Court does solicit the comments regarding its proposed mediation order. The reason that the Court provided notice of its proposed mediation order is because it would like

comments from you on whether this is a good idea in this case or not. First, the Court would like to hear from counsel regarding the concept of mediation in this case. Then we can discuss the particulars of the order itself. The Court does strongly encourage mediation in this case in order to facilitate the consensual resolution of disputes to the greatest extent possible. Bankruptcy certainly does offer litigation as a means to resolve disputes, and the Court is, of course, fully prepared to conduct the litigation of any issue that the parties decide requires it. However, the goal of bankruptcy is almost always better served through the consensual litigation of disputes.

What is the goal of bankruptcy? The purpose and goal of bankruptcy is to give the city a fresh start in its financial life and to do so in the most expeditious and efficient way possible. That's the goal of this bankruptcy and really all bankruptcies. Everyone who practices in the field of bankruptcy law understands that consensual resolution will meet the goals of promoting the city's fresh start better -- much better than litigation. There are two reasons for this. The first reason is that after this bankruptcy case is over, however it is resolved, many of the city's creditors will continue to have long-term relationships with the city. You know who you are, the unions, the bondholders, the employees, the trade creditors.

Settlements can stabilize and even strengthen those long-term relationships. On the other hand, litigation is not designed for that purpose, and experience strongly suggests that it will not have that effect. It may even be counterproductive.

Why is stabilizing and enhancing those long-term relationships important to the city's fresh start? For the simple reason that if these relationships are stronger and more cooperative, it will help the city's recovery and facilitate the city's ability to become the city that it wants to be. Strong relationships between the city and its creditors should also be important to the creditors because it will place the city in a better position to do more business with its creditors.

Finally and perhaps most important of all is that consensual resolution of the city's disputes with its creditors is in the best interest of the citizens of the City of Detroit. Without addressing their legal rights as such, the city that they deserve, a city that is strong, vibrant, and responsive, is more readily achieved after a settlement between the city and its creditors than after long, expensive, and potentially bitter litigation. As a result, the citizens of Detroit also have an important interest in the outcome of this case that is as prompt and efficient as possible. Sir.

MR. HEIMAN: Thank you, your Honor.

THE COURT: Hold on one second, please. Okay. All right. After all, I do need to ask you to turn that microphone so that its head is facing directly at you.

MR. HEIMAN: Is this better?

THE COURT: Turn it like 90 degrees so it's right -- pointed right at you. There you go.

MR. HEIMAN: Okay.

THE COURT: That's it.

MR. HEIMAN: Sorry.

THE COURT: Okay. But, again, I'm hearing noise in the loudspeakers, so please check your phones to be sure they're all off. Go ahead.

MR. HEIMAN: First, the concept of mediation. Obviously you articulated better than I could possibly why we support mediation. We want resolution. We don't want protracted litigation. We want to move swiftly. Time is our enemy, as I said. We are hopeful that a mediation process on all important issues that relate to the plan or otherwise, individual creditors' rights will be better served by mediation, so, again, we welcome that and appreciate your comments in that regard.

With respect to the order, which is your second question, we have no desire to change any of the language presented in the order as you've stated it.

THE COURT: All right. Thank you. And I want to

solicit the comments of others regarding the concept of mediation and the particulars of the order. It's probably not, however, appropriate to seek your comments in this forum regarding the proposed mediator, and so I am going to ask you if you have any comments, either -- on either side of the question about the proposed mediator, I'm going to give you a seven-day opportunity to submit to my chambers sealed and confidentially any such comments, and so the actual entry of the mediation order will be held up for that purpose, but at this point I would like to hear from others on the concept of mediation and the terms of the order.

MS. LEVINE: Your Honor, Sharon Levine, Lowenstein Sandler, and I'm not sure because of the informal sort of nature if I actually entered for whom I'm appearing, so with the Court's permission, the Michigan Council 25 of the American Federation of State, County, and Municipal Employees, AFLCIO, and Subchapter 98, the City of Detroit Retirees, which is the union's retirement group here in Detroit.

First, we support mediation. We support protecting our constituents in every way we possibly can within the core proceedings. We had some discussion in the retiree motion response about reservation of rights, and we've had some conversations with the city's attorneys with regard to that as well. We don't want the fact that we do recognize the

city has some serious woes here that it needs to address to in any way detract from our --

THE COURT: Um-hmm.

MS. LEVINE: -- ability to go down dual or three tracks.

THE COURT: Um-hmm.

MS. LEVINE: Two, with regard to the specific language of the order, we would just ask for a clarification with regard to decretal paragraph four, which I alluded to when I approached the podium earlier. In addition to mediating the difficult substantive issues that need to get done, we do seem to be having some issues which we're hoping that we're working through with regard to actually getting access to information and the ability to have more of a give and take in the process. And we're hoping that, to the extent that there is a mediator, it's a full-service mediator that can help us with process issues as well as substance issues. Thank you.

THE COURT: Good point. Thank you.

MR. GORDON: Your Honor, Robert Gordon again on behalf of the Detroit Retirement Systems. Your Honor, without waiver of our position that accrued pension benefits can't be diminished or impaired under the Michigan constitution, the systems are not simply standing pat on that position but are pursuing parallel -- the parallel path of

exploring ways in which the systems can be a part of the solution. Having said that, in the context of discussing mediation, it's important that -- again, harkening back to my comments from earlier, that the Court understand a little bit about where the negotiations actually stand. And this is not with respect to any comments about whether those negotiations meet the standard for good bid negotiations at all.

THE COURT: Okay.

MR. GORDON: This is about whether there's been negotiations in general. To date there have been, as has been indicated, several presentational meetings with the city and the emergency manager and his financial and legal advisors. There were presentations made at the airport on June 14th. There was a presentation made on June 20th regarding modifications possibly to pension and healthcare benefits. There was a financial due diligence session conducted in New York on -- I believe it was June 25th. There were further financial due diligence sessions conducted just on July 9th and 10th, roughly one week before this bankruptcy was filed. These were due diligence sessions. These were sessions to gather information. There were legal and financial advisors from all the major creditor constituents in a room asking questions about the cash flow forecast, for example, and that really is the basis for the proposal that was made by the emergency manager on June 14th.

Your Honor, those discussions made clear that there are a number of not immaterial but very material financial analyses that still need to be undertaken, and I want to make it very clear. I am not by saying this casting any criticism or aspersion on anyone. The emergency manager's team, as far as I know, is working very hard, but there is information that is not available at this time in the data room or otherwise, and some of that I can even give you an example because it's public. The emergency manager's proposal on -- that was disseminated on June 14th has those cash flows available, a ten-year cash flow forecast there.

THE COURT: Um-hmm.

MR. GORDON: The emergency manager's proposal also references, for example -- and this is just one example -- that there may be an initiative to create a water authority. And in the root cause document that was issued a couple months back by the city, there was some indication that such an authority may free up tens of millions of dollars in revenues for the city. Those numbers are not in the cash flow forecast at this time.

THE COURT: Um-hmm.

MR. GORDON: And it's been readily accepted they haven't, and the analysis is still ongoing as to what that number should be. That is very important because if you look at the cash flow forecasts, the premise of the proposal by

the emergency manager begins by -- with the fact that, according to those cash flow forecasts, there is on average over the ten years about $80 million a year available for payments to what are designated under his proposal as unsecured creditors. The root cause analysis talks about tens of millions. I believe it puts a range of maybe 30 to $70 million on that, so you can imagine just that item alone, 30 to $70 million versus $80 million, these are huge numbers, and it makes it difficult to sit down and have fulsome negotiations when there are things that are still in flux like that. Again, it's part of the process. This is not a mom and pop convenience store situation. There are a lot of complexities, and I fully expect that the parties will engage to resolve those informational issues, but they haven't happened yet.

The Retirement Systems have also -- I feel like I'm free to report to the Court -- have had discussions with their actuaries to discuss different issues relative to this matter. They are very complex issues, very complex issues with respect to the actuarial calculations, and we have kept the city --

THE COURT: This is the underfunding issue?

MR. GORDON: The underfunding issues or how cash flows might be permitted as they -- whatever the cash flows may be, how those could permit supporting the existing

benefits over time. We have kept the city, their legal and financial advisors apprised of our progress on that front with a view to being able to sit down with them, and it is, indeed, anticipated that later this month we will hopefully be able to sit down with our financial team and our actuaries in the same room with the emergency manager's team and his actuaries and start to have conceptual discussions about actuarial issues, but that is just at the beginning stage at this point, so I wanted to be clear about that. As a result, it is our feeling that while mediation -- we have absolutely no objection to the concept of mediation, we would respectfully submit it's premature at this point. We are going to make formal information requests of the city in the near future. It's been all informal up to now because of the out-of-court situation that we were in.

THE COURT: Um-hmm.

MR. GORDON: But we will be making formal requests, and, of course, the city will need time to respond to those requests. And then we would expect that the parties would engage in negotiations to narrow the issues, and we think that process needs to play out to some extent before we end up in mediation. We need better information, and we need to have had those discussions between the parties. So it would be our suggestion in that regard, respectfully, the Court consider something along the lines of perhaps having a status

conference every 30 days to see where we are in this negotiation process to gauge when mediation may be appropriate.

Rule 1001, as the Court has referenced, talks about both a just and speedy administration of the case. Just is as important as speedy is. We want to caution against expediency merely for the sake of expediency. We all have a sense of urgency. How could we not? But there is proceeding with all due dispatch, and then there's proceeding in haste and endangering parties' due process rights.

The sound bite that we hear that the city is broke is a catchy sound bite, but -- we all understand the urgency, but it is a bit of a sound bite. The city is not paying its unsecured bond debt at this time. The city is not paying its employer contributions at this time. The city is meeting its payroll obligations. So while everything needs to move with due speed -- we understand that -- again, it should not be used as an excuse to move through this process faster than is reasonable.

Your Honor, the stakes are high, and the men and women of this city, current employees and retirees, deserve to have their rights addressed in a careful and delicate manner and not in a more --

THE COURT: All right. You make really --

MR. GORDON: -- blunt fashion all in the name of

expediency.

THE COURT: You make really important comments, and I thank you for them. As I see the issue that you raise, it is this. Who is in a better position to determine when the actual mediation discussions should begin, either a mediator or the Court? A mediator could meet with the parties on a regular basis informally, supervise the expedited exchange of information, and have potentially a better sense of when to begin negotiations, or the Court, whose processes are much more formal, much more public, more constrained. I'm inclined to think that the mediator is in a better position to say, okay, now it's time to actually begin discussions.

MR. GORDON: Your Honor, I will step back and say this. What you've just described is a much more three-dimensional mediation process than perhaps I was envisioning and has often been the case.

THE COURT: Um-hmm.

MR. GORDON: What you're describing I think could be constructive. I would not dispute that.

THE COURT: Well, please understand what I'm referring to here and what I envision here is entirely facilitative mediation. There's nothing that this mediator will have the authority to do in terms of compelling any particular outcome, so it's up to the parties to work with the mediator on setting the agenda, setting the schedule, and

working through the issues. The ultimate deliverable is a plan, assuming we get past eligibility, which I don't want to assume, but for purposes of this we want to assume it, a plan that has the support of enough creditors to be confirmed; right? And in that regard, there may be other disputes that should better be referred to a mediation panel than to the mediator who is working on debt adjustment, and I think we want to keep that option open also.

MR. GORDON: Thank you, your Honor, for those thoughts and comments.

THE COURT: Okay.

MR. GORDON: Yeah. Without revisiting my comments, it is consistent also with our concerns that are expressed with respect to the retiree committee that, again, the process not be used in a way that --

THE COURT: Right.

MR. GORDON: -- allows someone in a perfunctory way to move --

THE COURT: Right.

MR. GORDON: -- through this process and say we've met the obligations, let's just go to a plan confirmation hearing when the parties really haven't had a real meaningful opportunity to discuss the issues.

THE COURT: Right. You've already heard me speak on the subject of why a consensual resolution is better than a

cramdown.

MR. GORDON: To that end, your Honor, the only other comment I would make is that as to the proposed mediation order itself --

THE COURT: Yes.

MR. GORDON: -- it is a little bit, I guess -- you know, your Honor, I'll strike that comment.

THE COURT: Okay.

MR. GORDON: Based upon your comments, I'm fine. Thank you.

THE COURT: Well, let me just offer this opportunity to you, Mr. Gordon, and really anyone. In the seven-day period that I'm going to allow for additional comments to be submitted to the Court, you should also take that as an opportunity to suggest any changes to the language or really anything about the order that you'd like.

MR. GORDON: Thank you, your Honor.

THE COURT: Would anyone else like to be heard regarding the proposed mediation order concept or terms? No? Sir.

MR. HEIMAN: Your Honor, just two quick comments to what Mr. Gordon said. The first is that I don't intend to respond today to some of his characterizations. I don't think that would advance the ball on the subject we're talking about. And the second is your Honor asked me awhile

ago whether the city is willing to continue to negotiate with its creditors. I think I responded that we're committed to doing so, and I want to make that clear again in this context. We do not view mediation as a reason to not continue our discussions. Quite the contrary. If mediation is going to be successful at all, it's our obligation -- and the burden falls on us -- we recognize this -- to move the ball here with information, discussions, or what have you, so we, again, endorse the mediation concept as well as the language of the order.

THE COURT: All right. Thank you. Let's move on then and talk about the proposed order appointing a fee examiner. Again, I have a bit of an introduction that I'd like to give you and everyone. In considering and addressing the issue of whether to appoint a fee examiner in this case, the Court wants to assure everyone who might be affected by such an order that it fully recognizes and accepts that neither Section 330 nor Section 1104 of the Bankruptcy Code applies in this Chapter 9 case. Those are the provisions of the Bankruptcy Code that judges commonly rely upon in appointing fee examiners in Chapter 11 cases.

Likewise, the Court states on the record here that it has no reason to believe that the city's professional fees in this case either have been or will be either excessive or otherwise improper, no reason. Still, the Court has

concluded that it at least should suggest and discuss with counsel the merits of appointing an independent fee examiner. It is easy to predict in this case that there will be intense media and public scrutiny of the city's professional fees. Now, this is entirely natural and proper, and, frankly, the Court encourages the public to remain fully informed about all aspects of the case, including the professional fees that the city is asked to pay. There is, however, a blunt truth that motivates the Court to make this suggestion. It is this. If the city's professional fees and professional fee expenses have been processed through an independent fee examiner, then two things are more likely. First, the city's professionals will be in a much better position to justify those fees to the city, and, second, the city will -- the city itself will be in a much better position to justify those fees to the public and to the citizens of the city. Therefore, the Court sincerely hopes that the city and its professionals will recognize and accept this blunt truth and agree to some kind of a process for the independent review of the city's professional fee expenses. The parties and counsel should understand that the Court is willing to be quite flexible on the design of the process and is fully prepared to collaborate with counsel on the process of fee examination if we agree to it.

There are, of course, many possible ways to

accomplish the goal. The process set forth in the Court's proposed order is only one way. Likewise, the Court is willing to be flexible regarding the process of selecting the independent fee examiner. If we can agree in principle to the concept, then I am confident we can work out the details and identify a qualified individual. Having said that, however, in order for the fee examiner to be truly independent, probably the selection should ultimately reside with the Court rather than with the city and its professionals.

So, again, I'd like to solicit first comments on the concept of an independent fee examiner and then regarding an appropriate process. Sir.

MR. HEIMAN: Your Honor, the city accepts and appreciates the concept, and we and the city and its professionals are committed to working with a fee examiner, whoever that may be.

As to the order, I had one I think very minor comment, but it's consistent with your comments about flexibility, which, as I understand your approach, would be -- this hearing or the entry of an order would be followed by a discussion between the fee examiner who you appoint and us, the city and its counsel.

THE COURT: Yes.

MR. HEIMAN: And so if you look at the first

sentence of paragraph 6 and less so to the first sentence of paragraph 5, there are issues in there, including rate per hour and so forth -- and that is, in my mind, going to be whatever it is, but it seems to us that that's somewhat covered by 4(c) or could be covered by 4(c) at least and that it might be better to move that to the proposed order that the fee examiner presents to your Honor.

THE COURT: Um-hmm, um-hmm, um-hmm. Okay.

MR. HEIMAN: With that minor suggestion -- and I must say it's not a big deal to us -- it's just a matter of how the process is going to work -- I think I've responded to your questions.

THE COURT: Okay. All right. Any other comments on either the concept of a fee examiner or the terms of the proposed order or any other order?

MS. GIANNIRAKIS: Good morning, your Honor. Excuse me. Maria Giannirakis on behalf of Daniel McDermott, United States Trustee. Your Honor, I'm here on Mr. McDermott's behalf to comment on the Court's suggestion that a fee examiner might be appropriate in this case, and although we're not asking for the relief, we are offering the Court information on our experience in Chapter 11 cases, and if the Court finds this useful, I'd be happy to share it with you.

THE COURT: Please.

MS. GIANNIRAKIS: Thank you. We've certainly -- we

certainly see the utility of a fee examiner in this case. As the Court has stated, the fee examiner could advance the public interest and the public confidence by promoting transparency in this highly publicized case. The U.S. Trustee has supported the use of fee examiners in complex Chapter 11 cases, and this endorsement is reflected in the new fee guidelines for larger Chapter 11 cases that the U.S. Trustee program has recently issued. The guidelines set forth several models for the use of fee examiners and fee committees and have proven effective. Most recently they have been effected in the GM and American Airlines cases. The fee examiner has not only proven to be effective and efficient in identifying problems such as over-staffing, but they've also raised other important legal issues for the Court's consideration. Just an example, in the GM case the fee examiner raised the issue of whether professionals should give notice of different rate increases. These guidelines and the information and guidance that's included in them might be helpful to the Court, the proposed fee examiner, and the parties. And just an example of some of the guideline provisions that we think could be useful is the adoption of professional budgets and benchmarking invoices to the budgets, the submission by professionals of electronic billing data, specific disclosure of comparable compensation through the use of blended rates, the disclosure of whether

rate increase -- of whether rates increased post-filing, the disclosure and calculation during the case of rate increases and the effect of those increases on compensation, and the consideration of standards for using co-counsel as efficiency counsel. We agree with the Court, as the Court commented, about Chapter 9 different from Chapter 11 but believe that some of these comments could be useful and thank the Court for allowing us to share that with you.

THE COURT: You're welcome, and thank you as well. Any other comments?

MR. HEIMAN: Your Honor, I'd just like to add one thing to note that there was a quite voluminous filing by Godfrey & Kahn, and I have no comment about that except that, for what it's worth, we don't think General Motors and Lehman are in any way comparable to our situation. Hopefully we'll have far fewer retained professionals and the like, and the process will not be so complicated, but having said that -- and they said they would be in the courtroom. I don't know if they are and may want to speak, but having said that, again, we appreciate your Honor's approach and accept it.

THE COURT: Let me ask you this question. To what extent do you think your office or your client or other parties should be invited to participate in the selection of an examiner, or do you just want me to do it?

MR. HEIMAN: That's an interesting question.

THE COURT: Again, there's a range of creative ways in which we could handle this. We could do what --

MR. HEIMAN: I personally --

THE COURT: We could do here what we are doing in the mediation context, which is just to allow you a seven-day period to submit confidential sealed suggestions or comments on this question.

MR. HEIMAN: I must say, your Honor, I'm just going to let my hair down on this one. For me to suggest who I would like to have examine my fees seems unseemly to me, so --

THE COURT: Okay.

MR. HEIMAN: -- that's my gut reaction. I don't -- you know, my colleagues may beat me up after this hearing for saying that, but that's my honest reaction. Your Honor has expressed --

THE COURT: I understand and accept that.

MR. HEIMAN: Okay. So with that we have -- I think I've addressed this already, your Honor. Number 6 on your amended list is future conferences and hearings, and we are --

THE COURT: Stand by one second. We do have --

MS. LEVINE: Sorry. Before we leave the --

THE COURT: -- Ms. Levine who'd like to be heard.

MS. LEVINE: Before we leave the fee examiner

issue --

THE COURT: Step forward, please.

MS. LEVINE: Your Honor, one of the issues and one of the themes you've been hearing throughout this is trying to maintain the credibility of a process that's a very difficult process for people to have to go through.

THE COURT: Yes.

MS. LEVINE: So to the extent your Honor would welcome it, I believe that we would like to have a voice at least in having your Honor consider some thoughts with regard to the fee examiner.

THE COURT: With regard to the identity of the fee examiner?

MS. LEVINE: The identity, yes.

THE COURT: Okay. Will it suit your purposes sufficiently if I give you seven days to submit to the Court confidentially and under seal whatever your comments are?

MS. LEVINE: Yes. Thank you.

THE COURT: Okay. And this is an opportunity open to everyone. Don't file anything, please. Just submit them to my chambers directly --

MR. HEIMAN: And, your Honor, Mr. Bennett points out --

THE COURT: -- by mail or hand-delivery, whatever you want to do.

MR. HEIMAN: Mr. Bennett points out, as he so often does, that I spoke for myself and not for the city, my client, so I don't know what the city's reaction will be to your invitation, and I just need to --

THE COURT: Okay.

MR. HEIMAN: -- make that clear.

THE COURT: Fair enough.

MR. HEIMAN: Thank you. Status conferences and omnibus, I think I have already said we appreciate the advance notice on those, and they look good to us, and nothing further to add to that unless your Honor has a question about it.

THE COURT: Just for notice purposes, the District Court has requested that we not conduct hearings on the morning of September 4th because there's another high-profile matter that morning, so if we do have any hearings of any kind on September 4th, they would be in the afternoon, and I'll have to get back to you all on what time in the afternoon.

MR. GORDON: Your Honor, I believe that's actually Rosh Hashanah that night, so just to be careful --

THE COURT: Ah, we will have to be very careful about that, too, yes. Thank you.

MR. HEIMAN: Your Honor, I --

THE COURT: On the issue of omnibus hearings, I

suggested a motion procedure that was very different from the one that your office submitted in its motion. You want to take that up now?

MR. HEIMAN: I would like to call on Ms. Lennox for that purpose.

THE COURT: All right.

MR. HEIMAN: Thank you, your Honor.

MS. LENNOX: Thank you, your Honor. For the record, Heather Lennox of Jones Day. What we had proposed in our motion -- we tried to be fairly faithful to Local Rule 9014-1, so I'm pleased to say that we just have a couple of questions and clarifications on --

THE COURT: Okay.

MS. LENNOX: -- what your Honor might propose, and some of them may be a little parochial or a little minor. The first one that I view as perhaps a little parochial is Local Bankruptcy Rule 9014-1(e) imposes a five-page limit on replies for certain matters, and then the Eastern District of Michigan rule has a similar blanket seven-page limit on replies. It is more than likely that as the debtor in this case, the city, will be doing omnibus replies to many objections, and we would ask for your Honor's consideration in waiving that at least as to the city.

THE COURT: Well, I'd rather deal with the issue now than get a motion to waive it on a case-by-case basis. Is

there a limit that we can set within reason?

MS. LENNOX: I do think it depends on the issue, your Honor. I mean if we're going to do a general limit, I would propose a little higher, so it might be up to 20 pages. For example, replies on eligibility could be quite lengthy. Replies on minor matters could be much shorter. But I do expect that there will be several objections that your Honor would prefer to have one pleading from the debtor rather than many.

THE COURT: All right. Well, then how about if I put in the order that that is extended to 30 pages and, of course, without prejudice to your right to request even more in the context of a specific reply?

MS. LENNOX: Thank you, your Honor.

THE COURT: What else?

MS. LENNOX: There was also a question on clarification that we had with respect to your Honor's statement on 4(a) about not conducting an evidentiary hearing on a motion unless the order and notice setting the hearing states otherwise, and that is simply a procedural question about how your Honor would like to proceed about whether we should notice that ourselves, whether we should put a request for that in the motion. How would your Honor like to address that issue so the parties know how to handle it in advance?

THE COURT: The more information you can provide to

me about what it will take to resolve any given motion the better, so, for example, if your motion foresees that there will be factual issues, it would be helpful to identify those factual issues and request an evidentiary hearing.

MS. LENNOX: In the motion. Thank you.

THE COURT: Right. At that point, I can decide whether it's appropriate to conduct the evidentiary hearing on one of these omnibus days or not, but I have to tell you that in general I don't foresee conducting evidentiary hearings at all on omnibus hearing days; that instead when there are issues of fact, we will identify them and set a schedule for whatever discovery might be needed, whatever additional briefing on any legal issues might be needed, and sometimes even a final pretrial conference and then an evidentiary hearing, so I like the idea of your telling me when you think an evidentiary hearing will be required and if it's possible that it might be an extremely brief one to do it on an evidentiary hearing day -- on an omnibus hearing day, but more often than not -- much more often than not, I foresee it playing out in a more traditional way. Does that answer your question, or is it too vague?

MS. LENNOX: That does in large main, your Honor. Part of the question -- and perhaps this is a follow-up question -- is related to your admonition in -- your perfectly appropriate admonition in Section 1 reminding

counsel that when you assert facts in a motion, you should have an affidavit to support them, so I would expect that there may be motions filed with affidavits that support facts in the motion but maybe we don't need a whole full-blown evidentiary trial on, things like that, so that --

THE COURT: Among the things we discuss at the initial hearing is whether there are genuine issues of material fact.

MS. LENNOX: Um-hmm.

THE COURT: And my suggestion or request, which maybe I should actually incorporate in the order, that parties advise the Court about whether they believe an evidentiary hearing will be required applies also to responses.

MS. LENNOX: Thank you, your Honor. Two other things, your Honor. You mentioned in paragraph 2(c) that the Court will let parties know at least two days in advance of the hearing what matters you would actually like to take up on the hearing. I am assuming for notice purposes in advance of that two days that the parties should submit a notice of hearing so that people will be -- people will be on notice of the hearing date that is proposed for that motion.

THE COURT: My concern with that process is that it has the potential for creating confusion.

MS. LENNOX: Um-hmm.

THE COURT: I would rather that the Court maintain complete control over the process of issuing dates. If you're concerned about two days not being enough time --

MS. LENNOX: That's the concern, your Honor.

THE COURT: -- we can talk about how to enlarge that.

MS. LENNOX: That is the concern, your Honor.

THE COURT: Okay. What would you -- what would you prefer then?

MS. LENNOX: I would propose, if it please the Court, at least five days, particularly if we're going to have many matters on for one hearing.

THE COURT: Okay.

MS. LENNOX: And then the last point that we had was one of the requests that we had suggested in our motion, and that is related to motions for relief from the automatic stay under Section 362. We had suggested a procedure, and we would ask the Court to consider it, that provides that if the Court is not able to hold a hearing or is scheduling -- unwilling to hold a hearing within that 30-day period referenced in Section 362(e)(1) that the stay not automatically terminate until your Honor can hold a hearing.

THE COURT: I saw that in there. My problem with it is I just don't think it's consistent with the requirements of Section 362 itself. I can state for the record pretty

categorically that it would be my intent to set every motion for relief from stay -- from the stay within the 30-day time period because that's what I think the law requires, and I think our history with motions for relief from stay certainly suggests that we have been able to do that. I think setting two motion -- or omnibus hearing days a month will permit that to happen. In the odd event that it can't happen, we can select a date that isn't an omnibus hearing date. We can ask the creditor to stipulate to extend it to an omnibus hearing date or, if necessary in odd circumstances, conduct a hearing by telephone, so we have lots of options to comply with that 30-day time period, and I'd rather do that than just have an open door.

MS. LENNOX: Thank you, your Honor. That definitely helps with clarification.

THE COURT: Okay.

MS. LENNOX: And that was all the clarifications that I had. Thank you.

THE COURT: Anyone else have any comments or questions or suggestions regarding the proposed motion procedure? Okay. One more second, please. Okay. Are there any other procedural or administrative questions, comments, concerns that anyone would like to raise before we go on to the motions that are set for hearing today? No? Okay. Let's first address the motion for the order -- for the entry

of an order appointing Kurtzman Carson Consultants as claims and noticing agent.

MS. LENNOX: Thank you, your Honor. The city has filed a motion, as your Honor indicated, seeking to appoint Kurtzman Carson Consultants or KCC as claims and noticing agent in the city's Chapter 9 case to, among other things, serve as the Court's agent to mail notices to creditors, provide claims processing service, and provide computerized claims database services, and we seek this relief pursuant to 28 U.S.C., Section 156(c). The city has identified more than a hundred potential creditors, including, among others --

THE COURT: Has identified what?

MS. LENNOX: More than a hundred potential creditors -- oh, I'm sorry -- a hundred thousand potential creditors in this case. We've got employees, retirees --

THE COURT: Just three orders of magnitude up.

MS. LENNOX: Yes. Perhaps I should have added another three zeros to that. In any event, there are quite a few people that are going to require notices in this case, and we think it might be burdensome on the clerk's office to send those notices to all those folks. Before selecting KCC, the city did solicit bids from third-party vendors to serve as the claims and noticing agent, and we selected one with relevant expertise in this district and relevant expertise in a Chapter 9 case since they served as the claims and noticing

agent in the Jefferson County case, and they were the most economical proposal at the end of the day. Again, we found it important that KCC had experience working with this clerk's office and this court, and they have assured us that they will continue to follow the court's procedures and any orders that might be entered by this Court. There was a declaration of Evan Gershbein that was attached to the motion. If your Honor has any questions of Mr. Gershbein, he is in the courtroom today. So with respect to the motion, we would ask for its approval. I don't believe, your Honor, there have been any objections to it.

THE COURT: Okay. Yes. Would you ask him to step forward, please?

MS. LENNOX: Yes. Mr. Gershbein, would you approach? Would you like him to take the stand, your Honor?

THE COURT: No, no, no. Just to stand there is just fine.

MR. GERSHBEIN: Your Honor, Evan Gershbein.

THE COURT: What is your name, sir?

MR. GERSHBEIN: Sorry. Evan Gershbein with Kurtzman Carson Consultants.

THE COURT: Thank you. One second, please. One more second, please. My clerk welcomes your participation. She does, however, have a couple of details that she would like to work out with you and to work them out in the context

of the order itself that the city has proposed.

MR. GERSHBEIN: Okay.

THE COURT: I'll just give you a heads up on them and just ask you to consult with her, and then the city can resubmit the proposed order to the Court. So there are two. The one is simply creating a link for the court to use to the claims register that you will keep, and the other is that you should work with the clerk when it actually comes time to file the notice of commencement because there's a very specific ECF event code that's important to use.

MR. GERSHBEIN: Right.

THE COURT: So these are not details I need to be involved in and don't want to be involved in, and so I'll just ask you to work them out with her.

MR. GERSHBEIN: Absolutely, your Honor.

THE COURT: All right. That was it. Thank you. Not too tough, huh?

MR. GERSHBEIN: Yeah.

THE COURT: Okay. All right. So when that's worked out, Ms. Lennox, would you just submit your proposed order through the order processing program?

MS. LENNOX: Thank you, your Honor.

THE COURT: All right. Let's talk next about the motion for an order directing and approving the form of the notice of commencement and the manner of service and

publication. I think that the deadline part of it we have already figured out or at least are on the road to figuring out.

MR. BENNETT: Okay. I think that's right, your Honor. On the notice part, as you know, notice is required in accordance with the statute notwithstanding the rather large notoriety the case has already attracted. We propose publishing the required notice at the required times in the Detroit Free Press and the Bond Buyer. We've received no objections, no comments at all to the proposed form of notice, and so if it's acceptable to your Honor, we'll get started on the process using the appropriate ECF code.

THE COURT: Um-hmm. Anyone have any comments or questions regarding this motion? Two. Okay. Go ahead.

MS. PATEK: Your Honor, just for clarification on the additional paper notice -- and that is part, I believe, of the notice of commencement telling people what they have to serve on the city. We did have a comment on that, and we think -- we're totally comfortable with e-mail notice, but given electronic filing and everything, we would --

THE COURT: Um-hmm.

MS. PATEK: -- prefer that from a cost and time standpoint that there not be paper.

THE COURT: This is a -- this is a concern I share. What is the need of the city and Jones Day to be mailed paper

copies of responses to -- or objections to eligibility in this electronic age?

MR. BENNETT: We have no need, your Honor, and I think I tried to mention that before. We are prepared to dispense with it.

THE COURT: Excellent. Mr. Gordon.

MR. GORDON: Thank you, your Honor. Just one nit. There is an identification of parties that are already presumed to be on the special service list, which includes creditors listed on a list of the 20 largest unsecured creditors. That would include the two retirement systems. However, there is no provision for counsel for those retirement systems to be on the special service list unless you file a motion, and I'd really like to dispense with having to file a motion. Hopefully Mr. Bennett would agree that counsel for those creditors should also be on the special service list.

THE COURT: Sir.

MR. BENNETT: That's perfectly fine, and for anyone else who wants to get on that list, if they want to contact us informally, that's okay as well.

THE COURT: All right. Thank you.

MR. BENNETT: Your Honor, are you going to make the changes to the proposed form of order, or would you like us to --

THE COURT: No. I'm going to ask you to do it and, again, submit it through our order processing program. Any other comments or questions regarding this matter? All right. Please let's give counsel till the close of business on Tuesday to request to be included, and then you can submit your order or actually let me ask this. Was your order constructed such that it can be entered now, or do you need to wait to find out the names of attorneys who want to be on the special service list?

MR. BENNETT: Well, I think the order encompasses both the notice part, which I think can -- we can do that separately. I don't think it requires work on the order at all.

THE COURT: Right. Okay.

MR. BENNETT: The deadlines, though, are there.

THE COURT: Right. All right. So I need to get that order entered so that you can pick them up in the notice. All right. Let's follow that sequence then.

MR. BENNETT: Okay.

THE COURT: All right. Let's turn our attention to the motion regarding the appointment of a committee of retired employees.

MS. LENNOX: Thank you, your Honor. The city has decided to seek relief under Section 1102(a)(2), which is made applicable to Chapter 9 by Section 901. We seek this

relief to assure the adequate representation of our retiree creditors during this case. As we set forth in the motion, retiree claims encompass pension benefits, which the city estimates to be underfunded by about $3-1/2 billion dollars, and retiree healthcare benefits, which are pay as you go and actuarially amount to about $6 billion. We have approximately 23,500 former employees with vested pension benefits. We have almost 20,000 of them receiving retiree healthcare. It is a very diffuse group of individuals.

Many of the city's legacy obligations but not all stem from old collective bargaining agreements. The city has 47 bargaining units with 28 different unions, and there are also four formal retiree associations which have voluntary membership of which the city is aware. There may be more.

As we noted in the motion prior to this case, the city solicited the unions to see if they were interested in representing their current retirees. The overwhelming majority said no. I do understand from reading their pleadings filed yesterday that two of the unions, AFSCME and the UAW, have reversed course on this issue, but, regardless, we still have many orphan retirees. We also have nonrepresented retirees, which comprise about 15 percent of our retiree population.

Given the pressing financial crisis that the city faces, the city filed this because it wants to have a clear

authorized representative who can speak for the city's retirees and engage in negotiations and discussions with the city over the issues of resolving legacy obligations in this case. We don't have the clean guidelines, of course, that Section 1114 provides, that the unions will represent their members, and, again, we would have to seek a committee in any event for the nonunion represented members. So we have sought relief under Section 1102(a)(2) to provide this important group of creditors with adequate representation in this case and to provide a body with which the city can hold restructuring negotiations.

There are a couple of things I want to make clear. In the papers we commented on who the city thought the committee should represent, and we defined retirees as a committee of former employees because we had assumed that the unions would represent their active employees with respect to this and other issues. However, the city does recognize that active employees do have an interest in retiree benefits, particularly those who have pension rights, so the city is not opposed to the committee having representation for active employees that have an interest in retiree benefits as part of this committee as the U.S. Trustee sees fit, which brings me to a further point, your Honor.

The U.S. Trustee had contacted the city after the motion was filed to discuss the motion and the procedures

proposed. Now, I want to be clear here. The city did not propose procedures to try to control the process. The city understands that should your Honor grant the motion, the formation of the membership and the selection of the members of this committee are wholly within the purview of the U.S. Trustee. It was simply suggested -- the city was simply suggesting some procedures to form a logical process that might be useful for people to consider. However, understanding that the appointment of the committee, should your Honor grant the motion, is within the purview of the U.S. Trustee, we had discussions with the U.S. Trustee, and we have agreed to remove the suggested procedures from the order, and I think a lot of folks had commentary about that in their objections. So the process to be used, should the motion be granted, to select a fair and representative committee will be the U.S. Trustee's own. Yesterday, your Honor, we did file on the docket a revised form of proposed order with these revisions reflected that is agreed to by the United States Trustee. If your Honor needs a copy, I have one with me that I can hand up.

THE COURT: Please.

MS. LENNOX: May I approach?

THE COURT: Please.

MS. LENNOX: That form of filing, your Honor, on Exhibit A is a proposed new form of clean order to which the

U.S. Trustee has agreed, and Exhibit B shows the blackline from the original order proposed with the motion.

THE COURT: All right. Stand by one moment while I look at this. Thank you. Go ahead.

MS. LENNOX: As a final comment, your Honor, because this also appeared, and there may have been some confusion -- and I think Mr. Heiman echoed this earlier today -- notwithstanding the appointment of the committee, the city also plans to continue discussions with all of its creditor groups with whom it's been having discussions. This is not an attempt to freeze out any party. This is simply an attempt to provide an authorized representative for folks that may not have adequate representation in this case as it stands today.

I do have responses to a lot of the objections that were filed, but perhaps your Honor wants to hear the objections beforehand.

THE COURT: Okay. Thank you. And who would like to be heard regarding this motion, please?

MS. LEVINE: Good morning, your Honor, for another minute. Sharon Levine, Lowenstein Sandler, for Michigan Council 25 of the American Federation of State, County, and Municipal Employees, AFLCIO, and Subchapter 98(c) of Detroit Retirees. Your Honor, we represent the interests of between 40 and 50 percent of the city's retirees at about 11,943. We

represent about 70 percent of the non-uniform union represented employees. We have 18 units of the locals that counsel was referring to. We have units in every single department in the city, including the police and fire departments.

Your Honor, I'd like to address a couple of issues raised. First and foremost, when we first started drafting this response, we drafted it like we were answering a law school exam, and we were originally going to take the position before your Honor that you can't do this kind of thing before there's an order for relief, and we have serious eligibility issues and concerns along those lines. We've had conversations with the city and are hoping that today they will affirm that all of this action, mediation, retiree committee, et cetera, is going to be taken without any prejudice to any of those rights, constitutional, substantive, technical, whatever else they are.

THE COURT: I agree.

MS. LEVINE: But regardless, the goal of our union is to work as hard as we can for all of our retiree and active members in every avenue that's available to us to work through this process. And in addition to that, we appreciate the city's comments that they recognize that a lot of the active employees have interests in their pension benefits and in their medical benefits as well, which brings me to another

point, which is there's some -- there's been some concern raised with regard to whether a union can actually represent its retirees.

THE COURT: Um-hmm.

MS. LEVINE: I'd like to respond two ways. First, legally we believe that the answer -- again, looking at the law school exam, that the answer is yes, that we have historically under our internal workings represented our retirees. In fact, at the International level, we have a designated person and a group that works with that person who just deals with retiree issues, so in that regard, we would fully expect to represent the retirees along with the actives, especially since a lot of the issues here overlap. And we've submitted the certification of -- from the union specifically talking about the fact that we do provide these services with regard to the retirees on a regular basis.

That said, your Honor, as a practical matter, in handling the situation in other cases -- and while they've been Chapter 11 cases under 1114 and not the unique situation we find ourselves in here, we have seen the United States Trustee's Office deal with this issue three separate ways: (a) actually appointing the union to the retiree committee; (b) appointing the retiree group affiliated with the union, which we represent here, to the retiree committee; or appointing individuals who are either members of the union or

members of the retiree committee. And in either of those three circumstances, we're committed to bringing the full support of the union to the process and hopefully constructively interfacing with the retiree committee's professionals and working through some of these difficult issues. With that said, your Honor, we start with the premise that we don't believe that there's a conflict, and we don't think that your Honor needs to rule on that issue.

Your Honor, the other issue that we did want to touch on just briefly is with regard to the timing, but we do think that your Honor addressed it adequately before, but we just want to state for the record that to the extent that your Honor enters scheduling orders in this case, we hope that they're without prejudice to come back to your Honor --

THE COURT: Um-hmm.

MS. LEVINE: -- in case circumstances change, including after the retiree committee gets up and running and its professionals get engaged. And with that, your Honor, we would just close by suggesting that we represent a large number of people here. We're very concerned about this process. It's a nice day today, but it's going to be cold this winter, and they're very concerned about their pension benefits, their health benefits, and moving forward constructively to resolve the issues here because regardless there's going to be something that has to happen in order to

resolve these issues. Thank you.

THE COURT: Thank you. Anyone else on this motion? Ms. Brimer. Oh, Mr. Gordon.

MR. GORDON: Thank you, your Honor. Robert Gordon again on behalf of the Detroit Retirement Systems. Since we did file papers, if I could at least acknowledge the fact that we did file papers on this, and there have been other papers filed subsequently by a number of parties that cover the same issues, so, from our perspective, the concerns have been addressed, I believe, by Ms. Lennox as far as not marginalizing anybody in the process and in the selection process with the U.S. Trustee's Office and giving the U.S. Trustee plenty of space to make their own decision.

The only other thing that hasn't been raised yet is we suggested in our papers that there's -- if there is going to be a retiree committee, it ought to be able to function properly, and so there should be some provision made for compensation for reasonable professional fees. Obviously that's not necessarily imbedded in the Chapter 9 context, so it seems like if that is something that's desirable to the city, there ought to be some provision made for that because, again, Chapter 9 doesn't quite cover it very well. Thank you.

THE COURT: Now Ms. Brimer.

MS. BRIMER: Well, good afternoon, your Honor. Lynn

M. Brimer appearing again on behalf of the Retired Detroit Police Members Association. Your Honor, we filed a response and very limited objections to the city's motion. Fundamentally we understand perhaps in the long term the need for committees in order to effectively negotiate a resolution of whatever disputes may arise with respect to fully funding the pension rights of the city's retirees. However, we have several concerns with the motion and the proposed order as it's presented.

First -- and I addressed this earlier, your Honor -- there is a concern with whether or not at this stage in this proceeding there is authority for the U.S. Trustee's Office to, in fact, appoint -- to go to the complete step of appointing a committee. While we believe it may be appropriate, without waiving any rights to our objection to eligibility for this Chapter 9 to proceed, for the U.S. Trustee's Office to begin the process of attempting to select and appoint the committees that should this Court determine eligibility should be appropriately appointed, however, appointment at this point may chill some of the existing retiree associations from actively pursuing their rights with respect to eligibility and may ultimately be that the committees are not properly authorized under Section 1102(a), which, in fact, does authorize appointment of committees after an order for relief. And if you look at at least some

of the more recent cases that have been filed, they are instructive to the extent that in the matter of In re. The City of Vallejo the Court, in fact, found that the appointment was premature prior to the order of relief. In the matter of In re. The City of Stockton, California, the orders were entered, you know. Immediately after the order for relief was entered, the Court then appointed the committee, which would tend to indicate the procedures were in place, and the Court acknowledged what the restrictions in Section 1102(a) are.

With that in mind, your Honor, we still have, should the Court determine that it is appropriate to appoint a committee at this point and assuming -- without waiving our rights to object to eligibility, assuming this case proceeds, we, nonetheless, still have some concerns with some of the issues raised in the motion. The procedures issues may have, in fact, been addressed by the city. We think it is completely inappropriate for the city not to control. The issue is influence. They should not even influence the selection process for appointing committees.

We do not believe it's appropriate for any of the unions or any representatives of current employees to have representation on committees that represent retirees. Continuing wages and continuing current benefits may impact their willingness or their participation in negotiating with

respect to pension distributions.

That raises the concern we have also with respect to whether or not one committee for retirees would be appropriate. As this Court may be aware, police and fire-fighters do not participate in the Social Security Administration; therefore, to the extent any of their pension benefits are reduced in this process, they will not have the same opportunity to pursue Social Security as perhaps the retirees of the general retirement system would have. They may have, therefore, very different interests in pursuing negotiations and may have to negotiate a different resolution of their benefits than the retirees who participate in the general retirement system.

Then, finally, the issue that was raised by Mr. Gordon is extremely important, and that is funding. If there are committees to be appointed, one or more committee, in order to properly be able to negotiate and address issues raised by the city, it must be funded. All of its professionals must be funded. Legal and any accounting or other actuarial type professionals that they would require should be funded. Even though I do understand that funding is not required, those provisions are not incorporated into Chapter 9, the fact that this Court recognizes the need for a fee examiner when, in fact, the fees are not subject to this Court's review under Chapter 9 is an acknowledgement that

this Court understands that funding and the protection of the public interest is of utmost importance in this case.

THE COURT: My question for you is really a process question. Does the Court have the authority to give direction and instruction to the U.S. Trustee in an order granting a motion like this, or is the process that the U.S. Trustee exercises its discretion, and then the Court, upon motion, reviews that after the fact?

MS. BRIMER: Well, I believe, your Honor, that, frankly, our U.S. Trustee's Office has the discretion and, in consultation with the various retirees and other interested parties, can evaluate what the appropriate procedures would be for selecting the committee. I can -- I recognize why the city filed this motion and brought it to the Court's attention that it would be very important in order to effectively advance negotiations that they are not negotiating with multiple retirees, individual retirees; however, I do believe that at this stage of the proceeding, it would be appropriate for the U.S. Trustees to exercise their discretion, move forward with the process for selection, and then present the Court with an order for the appointment of the committee.

THE COURT: Okay. Thank you. Mr. Morris.

MR. MORRIS: May it please the Court, Thomas Morris of Silverman & Morris. I'm co-counsel with Lippitt O'Keefe,

PLLC, representing the Retired Detroit Police and Fire Fighters Association and the Detroit Retired City Employees Association. The first organization has been in existence for more than 30 years, and the General Retirees Association has been in existence for more than 50 years, and these two organizations represent -- have as their members approximately 70 percent of retirees.

The reason we filed the response to the motion was we objected to the city's proposed involvement in the selection process and also the proposed involvement of the unions. The present employees of the city, most of whom are members of unions, have a very significant interest in seeing that their present wages are protected and their future benefits are protected, but they have a different interest than do the retirees. I take the -- we understand the proposal for a retiree committee to be just that, a committee of the retirees by the retirees and for the retirees, and it's not -- there's a lot of interests in this case to be served. This committee should not be everything to everyone. That's why we support the appointment of a committee, as I said, of retirees.

As to whether the Court -- whether it's appropriate for the Court to direct the U.S. Trustee in the details, that's -- the pared down proposed order is acceptable to us that leaves the details to the U.S. Trustee. I can

understand the Court ruling that way looking at the separation of powers. The reason for the U.S. Trustee's Office being separate from the court is to separate powers. We did submit a proposed order, which has some specific provisions that we would like to see in the order if the Court does prepare a more detailed order. I agree with the other comments that the scheduling order should allow the retiree committee, if and when it's formed, more time.

Your Honor, the associations hope to work with the committee and with the unions to help to reorganize the city and reach a deal, but we do think the retirees have special interests; that that interest has been represented by the associations with their unique situation, having been in existence for years representing such a high percentage of the retirees, having gone through and prepared and adopted by-laws, elected officers and directors, and we think all those are important considerations for the U.S. Trustee. We have submitted and received from members of the associations proxies, not legal proxies, but written recommendation that the officers and directors of the associations be considered as -- for membership in the committee.

THE COURT: One second, sir. Letrice, would you go adjust that mike stand to see if that takes care of the knocking that we're hearing through the loudspeaker? All right. Let's try that and see if that will solve our

problem, and you may continue, sir.

MR. MORRIS: Yes, your Honor. We submitted to the membership documents for them to sign to recommend for the inclusion in the committee officers and directors of their associations. I think it'll be more appropriate for us to take that up with the U.S. Trustee, but we do have those available for the Court if the Court decides to get involved in the process to that detail. Thank you.

THE COURT: Thank you, sir. Other comments?

MS. PATEK: Your Honor, once again Barbara Patek appearing on behalf of the public safety unions, the three police unions, and the Detroit Fire Fighters Association. We did file a response and a limited objection to the city's motion. We are looking for four things, and I -- understanding the limitations and the role of the U.S. Trustee's Office, we're looking for a seat at the table. We're looking for the U.S. Trustee to control the selection of the committee, and we are also looking for a mechanism for this committee to be adequately funded. Otherwise it will not make it an effective process, and the two things that we have suggested -- and we understand under Chapter 9 because of the limitations, it would require the city's consent -- would be that the city consent to pay the reasonable professional fees of the committee and delegate the responsibility for determining the reasonableness of those

fees to the fee examiner to be appointed by the Court.

We filed our response without prejudice to our right to object to eligibility, of course, and we are not conceding that the formation of such a committee would make it the sole negotiator on the issues before the Court.

I want to address the Court's question about 1102(a)(2) and (4) and the order in which things should happen, and it seems as though we have perhaps already leapt over the obstacle of having an order for relief. And I suggest, to the extent that the Court finds that it has authority, that given the -- that everyone in this courtroom agrees that time is not on its side, that from the standpoint of judicial economy and the efficiency of the process, that the Court in this case may be in a position -- ultimately the U.S. Trustee is going to select this committee, but to give some direction based upon the information that is being put before the Court this morning, and to that end I would like to speak briefly to the circumstances of my constituents. And appreciating that there -- if we were in a Chapter 11, there would be specific provisions that would govern both my clients' rights and the rights of the separate retirees under 1113 and 1114, we are in a very different circumstance in this case in terms of there's nothing usual about this case, but from the standpoint of collective bargaining -- and you heard the city's counsel say it earlier this morning -- from

their perspective, all the bargaining units, pursuant to the Emergency Manager Act, their position is -- and I'm not conceding this because I don't for sure know the answer to it -- are under imposed conditions of employment or imposed terms that have been imposed on them by the emergency manager. To date, the position has been first under Public Act 4 and then later after that was repealed under 436 -- the position of the city has been we have no obligation to bargain with you. We can pretty much do anything to you that we want except modify your pension. For that we need Bankruptcy Court, and now here we are. And we are a group that -- aside from the fact that our active employees do have vested benefits, this retiree group is obviously a rolling group, some by choice and some not by choice, may be moved very quickly even as this process is proceeding from active to retiree, and the issue of these pension benefits is the 400-pound gorilla in the room. And so for that reason, we think -- you know, we are advocating to have a seat at this table. We understand the Court can't tell the trustee who to put on the committee, but in terms of making it representative, there are a lot of different constituencies from the folks, as I think Ms. Brimer pointed out, who have no Social Security -- and some of them I understand don't even have Medicare to fall back on -- to some people who perhaps have more luxurious pensions and a second career.

There's a lot of different constituencies, and the goal will be to get a representative constituency, and I'm going to return to, I think, from our perspective, we want not only representation, but it's critical that this committee, if the Court is going to appoint it, be adequately funded so that there can be a real and serious conversation about how this problem can be solved. Thank you, your Honor.

MR. GOLDBERG: Good morning, your Honor. Jerome Goldberg. I represent party of interest David Sole, who is a retiree himself and was a former president of UAW SCATA, a chemist, and whose wife also is a retiree as a bus driver. I also filed an objection in this case, and we basically cited that our interpretation and our view of the plain language of the statute is that this motion is premature, that 11 -- Section 1120 -- 1102(a) states that the trustee has the authority to appoint committees after a order for relief is entered, and 11 U.S.C. 921(c) provides that in a Chapter 9 case the Court shall order relief only after objections to the eligibility issues have been resolved and the determination on eligibility has been made. That's why we believe that the appointment of a retiree committee at this point would be in plain violation of the law.

Why we feel that's so important is that the -- as your Honor stated earlier, that one of the critical issues in eligibility is the applicability of the state limitation

on -- constitutional limitations on impairing pension to this case. That's a critical question that not only affects the thousands of retirees in this case, but it also will have national impact. There are 24 other states that have guarantees on pension. They're looking at what the decision is going to be on that issue. And our concern is in designating a retiree committee, especially the way it was initially proposed by the city, which would essentially be the only spokesperson for the retiree, it could have the effect of dampening the participation of all interested parties who choose to participate in this critical question, whether they be retiree associations, the unions, the retirement boards, all of whom already have done so and whose participation we fully respect, or individual retirees. There needs to be the fullest participation in this critical question that will have implications in Detroit and all over the country.

THE COURT: Why would this committee do that, or how would it happen?

MR. GOLDBERG: Well, just listening to the debate here, we hear everyone vying for who will be on the committee, but what we say -- again, we say the plain language of the statute bars the formation of this committee.

THE COURT: No. I understand that, but you asserted that the formation and participation of this committee in the

eligibility question will discourage others from asserting their issues. Why would that happen? How would that happen?

MR. GOLDBERG: Well, let me just say that in the city's motion for this, the city provided that the retiree committee would provide a single party to negotiate with the city on behalf of retirees as a group.

THE COURT: They've moved past that; right?

MR. GOLDBERG: Well, it does sound like they've moved past that today, and I appreciate that they've moved past it today, your Honor.

THE COURT: Okay.

MR. GOLDBERG: But, again, I really do feel that at this point it's improper. At this point the critical question is the eligibility question and the constitutionality, and, in fact, what would the committee even be negotiating on at this point? To spend time debating who should be on a committee when the scope of what the authority is on the issue of pensions and whether there's even authority in this question seems to me to be a diversion from the issue of eligibility that needs to be decided first under the law, and that is really the significant question in front of everybody right at this moment.

THE COURT: Of course, the statute says the Court has the authority to order this after an order for relief is entered; right?

MR. GOLDBERG: Yes, it does.

THE COURT: It doesn't say the Court doesn't have the authority to do it before that, does it?

MR. GOLDBERG: Well, I think by the language of the statute, it empowers -- it states when the Court has that authority, and 921 imputes that right into it, says the Court shall order relief only after objections to the eligibility questions have been heard. Thank you, your Honor.

I just want to make one other point, too, just for a point of correction to the city's motion that the city indicated that the city is the only authority that -- that the city has the authority to amend pensions, and just to clarify, I did attach Section 4744 of the Municipal Code 2 as an exhibit to our brief and which states very plainly that that authority does not apply to vested pensions. Thank you, your Honor.

MS. CECCOTTI: Good morning again, your Honor. Babette Ceccotti, Cohen, Weiss & Simon, for the UAW. We did file a short response to the motion, and I'll touch briefly on essentially three items that we've covered.

First, the UAW is not taking a position specifically with respect to the 11 -- what I'll just call 1102 issue, whether the Court should grant the motion now. We are, however -- to the extent the Court does grant the motion, we want to emphasize three points, some of which have already

been touched on by counsel. First, the funding issue. We've stated in our motion that the UAW, if such a committee is formed, would be interested in declaring its interest in serving on the committee. Critical to the UAW's thinking in that regard and decision-making would be a sense that the committee is going to be able to have adequate resources to adequately perform the job that the committee is being formed to perform, and you've heard the other speakers. I won't belabor the point, but we do consider the funding to be very critical here, funding by the city, and we have suggested in our papers that the city should indicate its intention so that the Court has that information before it in terms of making a decision regarding granting the motion.

Second, on the -- we've indicated reservations of rights issues as well. Ms. Levine touched upon them. Others have as well. And we understood the Court to be cognizant and agreeing with us on that point, so I won't --

THE COURT: I am and I do.

MS. CECCOTTI: Thank you. So that leaves me with our third point, which is the point of adequate representation, and I regret that we have -- or being the U.S. Trustee thinks that we've initiated a disputed with them -- it was certainly not our intent to do so. We certainly have respect for the office -- their office, and we understand their role and respect the role that they play in

forming committees. However, that said, we do think that some guidance by the Court -- if the Court, again, were inclined to grant the motion, that some guidance just to deal with just some very practical considerations -- and I think you've heard some of them here today. When the city filed its motion, as Ms. Lennox indicated, they at first proposed a series of rather detailed procedures. The revised order that has been submitted to the Court has deleted those procedures with the expectation, and I think appropriately so, that the U.S. Trustee would be designing the solicitation procedures and the process by which it would form the committee. However, let's take a step back and let's assume that the city had not attached any suggested procedures. One would -- we would have had a motion to appoint a retiree committee with a definition and, you know, perhaps some very general definition by the city and nothing more. And without any further guidance, the U.S. Trustee would have immediately, I'm assuming, just based on some of the questions that have been raised here today, have confronted a series of questions, some of which might be just considered procedural, but some of them would be quite basic, the scope of the committee's purview, whether the committee should include or can include individuals, associations, and labor unions, questions about -- the questions that you've already heard discussed before your Honor today about labor unions serving

and in what capacity. These questions we could see, as a practical matter, might bog down the process to the point where either the parties would be back here before your Honor anyway or the U.S. Trustee, doing its best to take on those issues and try to solve them just themselves, would undoubtedly spur additional proceedings before your Honor anyway. So our thought was that -- and we understand normally how the sequencing goes. We've read the statement submitted by the office. We still think that 1102 does contemplate a role for the Court and that in terms of -- not with respect to detailing and wordsmithing procedures and not with respect to dictating or directing that specific entities or parties be appointed, but that, nonetheless, the framework, if you will, or the table that's being set for the office to perform its functions appropriately resides with the Court, particularly given the array of comments that the Court -- that have been filed both with respect to the legal issues but also with respect to issues of composition. We state -- we have stated -- and, again, the UAW has a lot of experience on creditors' committees, on general creditors' committees and in the Chapter 11 context in the 1113 and 1114 process and outside of bankruptcy, and one of the things that labor organizations do is engage with employers on complex matters such as pension benefits, health benefits, retiree health benefits, other types of benefits as well. It makes

the unions, in our view, who take on this role -- and the UAW is another union that historically does take on this role -- particularly well-suited to a project like this and a committee like this where their facility with being able to engage on these matters will aid in the effective functioning of the committee. So we made the suggestion that we did in our papers that the Court provide some direction on, again, the framework and scope and eligibility, if we can put it that way, in order to make sure that, first, the -- everyone's goal here, if your Honor grants the motion, is that the committee be effective and be able to function effectively with -- not only with funding but with members who can effectively undertake the task. This is an enormous task, and you've already heard about the human element here.

Second, in terms of participation and scope -- and we've made this point in our papers -- if there is a group that feels disenfranchised -- and we think this is -- I would put this in the heading of guidance that the Court could provide to the U.S. Trustee in fulfilling its role here. If there are groups that are left out for some reason or feel excluded, that will directly affect the credibility of the process, and it doesn't do the Court any good or any of us any good to have a committee like this formed, as I've said already, that cannot effectively complete its task. And if you have skepticism engendered by exclusions or if some folks

have -- some groups have been selected to serve and some haven't, undoubtedly that will have ramifications. So we think that, again, with all due respect to the Office of the U.S. Trustee and with no intention at all to interfere with their proper function in conducting the solicitation and the formation, we do think that some guidance along the lines that we've set forth in our papers in here would be appropriate and is also appropriate under the statute itself without crossing -- unduly crossing any lines or inappropriately crossing any lines in terms of the division of labor between the Court and the U.S. Trustee's Office.

THE COURT: Let me ask you this question.

MS. CECCOTTI: Sure.

THE COURT: I heard today a concern that a union which represents by law present employees may have either an actual or a potential conflict of interest in representing retired employees. How do you address that concern?

MS. CECCOTTI: A couple of ways, your Honor. First, unions that -- like the UAW that are very familiar with the bankruptcy process and have served, as I said, in Chapter 11 cases for the most part undertaking those roles, are very skilled in -- not only very skilled in the substance of the subject matter but in making the internal institutional decisions to undertake representation of both actives and retirees. They do not see an inherent conflict in taking on

both -- in taking on that -- I was going to say both roles, but it really is a continuum. It's really viewed as a whole, and I'm speaking now really for the UAW. You heard Ms. Levine speak on behalf of AFSCME. These are decisions that individual labor organizations make based on their own institutional history and organization and their own institutional functioning. We do not think it would be appropriate for an outsider to simply make a blanket across-the-board station that -- statement -- excuse me -- that simply because we have a labor organization that is representing a unit of actives, that labor organization is, per se, disqualified. The first question to ask is what does that particular union think about that -- what is the position of that particular union? The UAW does not see an inherent conflict and hasn't throughout its history. It's been actively involved in retiree matters as -- with respect to retiree interests, not simply actives as future retirees but current retirees. They have -- and that is, again, part of their history, so I think that it is not possible really to make a blanket statement to that effect and that each labor organization answers that question for itself and should be permitted to do so given its own institutional operation and history.

THE COURT: Next question.

MS. CECCOTTI: Um-hmm.

THE COURT: You have argued that the Court has the authority to give the U.S. Trustee's Office guidance.

MS. CECCOTTI: Yes.

THE COURT: What guidance would you propose?

MS. CECCOTTI: Well, I would certainly propose guidance to the effect of a definition of the scope.

THE COURT: Right.

MS. CECCOTTI: Right. And I thought I heard Ms. Lennox -- I couldn't quite hear her too clearly, but to the extent the scope or anything about the scope has changed from the time the motion was filed until today, whatever that is --

THE COURT: The scope is an easy one. It's actually inherent in the process.

MS. CECCOTTI: Understood, but I guess my point would be as long as we have a clear understanding -- as long as -- the United States Trustee should have a clear understanding of the scope of the committee.

THE COURT: Okay.

MS. CECCOTTI: It's also appropriate, I think, for the Court to provide guidance concerning the pool, the eligible pool. Is it okay to solicit, particularly in light of what you've heard today, retiree associations, individuals, and unions? And we think the answer to that should be yes, and we --

THE COURT: Okay.

MS. CECCOTTI: -- think that the guidance would ultimately help the U.S. Trustee devise its procedures and make the process work that much more efficiently. To the extent the Court --

THE COURT: So if I gave that guidance, that would effectively be an authorization to the U.S. Trustee to choose among those potential participants however it saw fit?

MS. CECCOTTI: With one more piece of guidance, your Honor, which is that -- and anything you'd like to say on funding, we'd be -- by the city we'd be happy to hear that, but that wasn't what I was going to say next. What I was going to say next is to the extent that -- well, not to the extent. Adequate representation is something that we do think the Court should comment upon, and in this case, although it seems like a lot when you say there are 47 bargaining units, I would doubt that there will be 47 people clamoring to get on this committee, so the suggestion would be that for adequate representation purposes, any group that wants to participate should be permitted to participate because you can't, practically speaking, for example, ask -- tell Unions A, B, and C, who show up ready and willing and able to serve -- you can't say to them as a practical matter there's too many of you; therefore, we're going to have Union A represent the retirees for Unions B and C. So we do think

that some adequate representation instruction along the lines of what we've suggested here is appropriate just to avoid the exclusion issue that we've suggested would be very detrimental to the process, not to mention just the practical implications of asking one -- with respect to the organized groups, those that are organized, one group to try and speak --

THE COURT: Well, but isn't it appropriate for the U.S. Trustee's Office to be concerned that in order for the committee to actually function, it has to have a limited number of people?

MS. CECCOTTI: Understood, and that is certainly part of their challenge. No question about it. We think, though, that there is a point to be emphasized that while there is -- there could be -- there could be a numerocity issue, there is also very definitely in 1102 an adequate representation issue so that in balancing those two, the fundamental concept there should be adequate representation and if there is an issue with respect to size, that that would be something that would be taken up in the context of determining adequacy of representation.

THE COURT: Thank you.

MS. CECCOTTI: Thank you.

THE COURT: Sir.

MR. KARWOSKI: Good afternoon, your Honor. Michael

Karwoski. I'm representing myself as an attorney who worked for the City of Detroit Law Department for about 15 years. I retired about a year ago. I draw a pension from the General Retirement System of the city. I can speak to -- I'd like to just address two points briefly because I know it's been a long morning, and we're into the afternoon.

Attorneys for the city who are not in management are members of Public Attorneys Association 2211, which is affiliated with the UAW. For the 15 years that I was with the city and a member of that union, the union did not represent the interests of retirees. In fact, there were a number of issues where the union took positions that were adverse to the interests of retirees because it seemed that there's a limited amount of money available in the pension system, and sometimes the active -- the interests of active employees are different than those of retired employees, so I would suggest that in terms of the structure of the committee, that there should be a distinction between retirees who are drawing a pension and those who are -- and employees who are -- former employees or current employees who have vested interests in future retirement benefits, which may be different.

I have not seen the list of creditors that the city filed yesterday evening. I believe, as a retiree and someone drawing a pension, I'm probably on -- I'm somewhere in that

list of -- in that 3,500-page list.

With respect to this motion, the city has given notice to -- on page 16, paragraph 29, it indicates the groups that it's given notice to, and I respectfully -- the last sentence is, "The city submits that no other or further notice need be provided." I respectfully suggest that this is essentially an ex parte motion at this point because the group that has not gotten notice is the group that has the most important interest in this motion, which are the retirees themselves. The groups -- not only have they not gotten notice, but the groups that did get notice have an interest adverse to the retirees. They include the largest creditors, the bondholders, the insurers, the large dollar interests who -- to the extent that pensioners are involved in the bankruptcy process and there's a limited amount of money available to satisfy creditors, the less money that is allocated to retirees through the committee process or otherwise, the more money there is for the larger -- for the other creditors. So the groups that have gotten notice are either the groups that are adverse to the interest of retirees or the unions and the associations, which the discussion that we've had so far, you know, is mixed at best as to whether they have legal authority to represent retirees and whether, in fact, they have interests that are contrary to the interests of retirees.

My request is that the Court order that notice of this motion be sent to all of the retirees of the City of Detroit, the 12,000 who are drawing pensions and the approximately 12,000 employees who have either a vested pension or a vested interest in health benefits. It's a large number obviously. It's about 24,000 people, but it's 24,000 out of a hundred thousand creditors of the city. And as the city has said, the alleged indebtedness of the retirement system, the $3.5 billion, is one of the larger debts at issue in this case along with the $6 billion of pay-as-you-go health benefits.

From the standpoint of each individual retiree whose average pension is $19,000 a year or less, knowing about this process and having the basics of due process, notice and an opportunity to be heard, are as essential or more essential to those retirees as they are to the bondholders, the insurers, the credit swap counterparties, whoever they are -- the notice is more important to the retirees because of their -- the importance of their pension to them even though the dollar amount of the individual pensions is small.

Stockton, California, which had about 2,000 retirees, in the appendix or attachment to its petition listed the 2,000. They listed the individual names. They listed the addresses in care of the pension boards to avoid the privacy issue, which I understand caused the city to

withdraw the list that it originally filed. It's certainly doable to do that kind of a mailing, and, in fact, my understanding is that the city has proposed doing a mailing of that type somewhere down the road further in the process using Kurtzman Carson Consultants to do that mailing. It's a day late and a dollar short to do the mailing after the motion has been granted, after the committee has been appointed, after the process has run its course. It makes more sense, I believe, in terms of fundamental fairness, due process, and an opportunity to be heard for the Court to order the city to send the motion to the retirees through Kurtzman Carson, give them a short -- in the notice to the retirees give them a short turnaround time to respond to it. Some will, and some won't. The city somewhat condescendingly on page 13 refers to the retirees as basically a bunch of old fogies who don't know what's going on and wouldn't know what to do with the notice if they got it. I suggest that that's presumptuous on the part of the --

THE COURT: All right, sir. Thank you. Who else would like to be heard?

MR. KARWOSKI: Thank you, your Honor.

MR. TAUBITZ: May it please the Court, Dennis Taubitz appearing on behalf of myself. I'm a retiree of the City of Detroit, and I'd like to make the following comments. I concur with Mr. Karwoski. I believe that this committee,

as proposed, would be a denial of the due process rights of the 20,000 retirees. I also believe it's premature. I want to assert that the retirees are not a member of a labor union. They don't pay dues to the union. We don't have a voice in the union. The union, therefore, does not represent the retirees. Further submit that all 20,000 retirees deserve a place at the table. Thank you.

MS. GIANNIRAKIS: Good afternoon, your Honor. Again, Maria Giannirakis on behalf of the United -- Daniel McDermott, United States Trustee. Sorry. Your Honor, the United States Trustee does not take a position on the motion here if an appointment of a committee is appropriate, but, frankly, we filed a response to the UAW's -- we filed a statement in response to the UAW's response that was filed yesterday because what they are asking is that if the Court does appoint a retiree committee, that it directs the U.S. Trustee to appoint all labor organizations to that committee or even some labor organizations, and I think other parties have mentioned the same thing in court this morning. This relief is simply not available. 1102(a)(2) states if the Court directs an additional committee to be appointed, the U.S. Trustee will appoint a representative committee. There's nothing that mandates the appointment of a particular creditor. If parties, after a committee is selected, deem that it's inappropriate, 1104(a)(4) provides the relief that

they need, but that's not appropriate yet because at this time there's no committee appointed, although the UAW referenced that. Frankly, 1102(a)(4) says if the committee is appointed, after the appointment of the committee the Court directs the U.S. Trustee to appoint, if a party deems that it is not represented on the committee, then it has the right to come back to the Court at that time, and then the Court, if it finds that the committee is not adequately represented, will direct the U.S. Trustee to change the committee composition. The request that the UAW is making is not available at this time and is -- I'm sorry -- and is premature if they're asking the Court to -- they're assuming it's going to be a nonrepresentative committee, and that's not appropriate at this time.

THE COURT: If the Court grants the motion, what would be the time frame for the U.S. Trustee to complete its responsibilities?

MS. GIANNIRAKIS: Your Honor, we have already started discussions with the city and other parties. We have been working on doing this as quickly as possible if the Court does grant the motion today. In cases where there are exigent circumstances, we have appointed committees almost immediately, in as little as three days. We don't anticipate that'll happen here because it's a complicated case, and we don't think we can quite proceed with that degree of speed,

but we will do everything in our power to appoint a committee as promptly as possible and with a view towards all the issues that are arising in this case.

THE COURT: Thank you.

MS. LENNOX: Thank you, your Honor. I think there are about half a dozen thematic objections that I'd like to respond to in due course. The first is about the motion being premature. This motion is not premature. We do not need to wait for an order for relief to be entered under Section 1102(a)(2) of the Bankruptcy Code under a plain reading of the statute's language. The limiter that suggests that the appointment of a committee should await the entry of an order for relief is only in Section (a)(1). If Congress had wanted that limiter to apply to both Sections (1) and (2), it could have placed the limiter in (a), and then it would have modified both subsections. It didn't do that, so the motion from a statutory basis is perfectly proper and perfectly timely. Moreover, from a practical perspective, your Honor, as many of the objectors themselves have noted, the legacy issues in this case are exceedingly important and complicated, and there's no reason to delay the discussions of them. In fact, discussions of them have already commenced. In fact, it would be irresponsible to delay the appointment of a representative committee for those folks who are not currently at the table.

With respect to the Vallejo case that Ms. Brimer pointed out, in that case, to the extent it made any difference to the Court, that was not a case where the debtor moved for a committee. In fact, the debtor opposed the committee in that case. Here we are moving for the committee.

Secondly, your Honor, with respect to notice, we do state and we did in our motion and we did give notice to the four retiree associations that are voluntary memberships of currently retired persons that we were aware of. In fact, three of them have shown up today, and one of them claims to represent 70 percent of the folks that are retired, so we do think notice is appropriate. This is a procedural process in which we asked to appoint a committee to represent some folks. This is not s substantive process where we are asking to compromise any claims that retirees may have, so under the circumstances, we believe notice was perfectly appropriate.

Third -- and I've stated this before, so I'll just make it clear on the record again -- we are not -- the city is not participating in the selection of members of the committee nor does the city intend to be involved in who the committee selects as its professionals if it is appointed, so we don't believe, as has been alleged in a couple of pleadings, that there's any violation of Local Bankruptcy Rule 2014-2 here.

Fourth, with respect to the notations and reservation of rights -- and for this I would like to say that the city does appreciate the thoughtful response that was filed by AFSCME on this issue. It was very constructive. And we do confirm that by this motion the city is not seeking to preclude a creditor or the committee itself, should it be appointed, from weighing in on or objecting to any other substantive issue in this case, including eligibility. We are not asking parties to waive those rights.

Fourth, one of the objectors has suggested there should be more than one committee, and we submit there should only be one committee. The retirees in the two pension systems have more in common than not. Each has an underfunded pension. Each gets similar retiree benefits from the city. The legal issues to be addressed are substantially similar, if not identical, but even if that were not the case, your Honor, the whole purpose of having a committee is to bring representatives of differing types of interests but claims of the same legal priority together in one body to try to work out a consensual plan. You know, it's one thing for a committee to negotiate with a debtor, but there are differing interests on a committee. That's the whole purpose of it, and part of being on a committee is so that the creditors can start working out their intercreditor issues as well. We think it's, therefore -- I mean on a normal regular

official unsecured creditors' committee, you have bondholders and unions and trade vendors and, you know, a host of people with differing interests. That's the whole purpose of having a committee. So we think it's perfectly appropriate and intended for members with different types of views and interests to sit on one committee, and we think that applies here as well.

And then finally, your Honor, this is the punch line that everybody seems to have been waiting for. As many of the objections concede, a Chapter 9 debtor is not required to pay for professionals of the committee. Nevertheless, in light of the special nature of this committee that the city itself has sought, it is the city's current intent to pay for the reasonable fees and expenses of the retiree committee professionals, one committee's professionals. If the committee is formed, the city will have to certainly discuss with the committee itself what's reasonable and rational under the circumstances, and like it's done with its own professionals, the city is going to look to maximize efficiencies and economies among the committee's professionals as well as all professionals in the case. So, accordingly and as most of the objectors have noted, it wouldn't be inappropriate to put that in an order. However, the city did wish to make its intentions known on the record.

THE COURT: Thank you. In a few moments, the Court

will take under advisement the issue raised by this motion. There is another committee that I think we should think about here. It would be a committee of tort claimants, tort claimants, accident claims, civil rights claims, people who have litigation pending or contemplated to be filed. The merit of this seems to me to be as much procedural as substantive. I think the last thing any of us wants is a flood of motions for relief from stay filed by people with lawsuits against the city to be permitted to pursue those claims, and it seems to me there may be merit in the appointment of a committee for the purpose of working out how those will be handled. They are quite complex because the options of where those cases get resolved is quite wide; right? Under 28 U.S.C. 157(b), you know, personal injury claims can be filed -- or can be tried in the District Court or in the court that they were pending in, and it seems to me that we ought to try to think of some way to manage that potential chaos.

MS. LENNOX: May I respond, your Honor?

THE COURT: No. Please think about that. I don't need a response right now, but at some point I think we need to think about that issue.

MS. LENNOX: Yeah. We have thought about that on many, many fronts about how to handle that. In fact, we have inquiries that have been made of us, and we do have what we

believe is a perfectly appropriate process at the right time to resolve those kinds of claims that would not necessitate the appointment of a committee.

THE COURT: Okay. All right. Anybody else have anything for today?

MS. LEVINE: Your Honor, before you deliberate, can we make one or two comments on the proposed form of order?

THE COURT: Yes, please.

MS. LEVINE: The order that was filed last night seemed -- Sharon Levine, Lowenstein Sandler. The order that was filed last night seems to have resolved a lot of the issues between the city and the U.S. Trustee, and we appreciate those efforts. Decretal paragraph one, though, says the motion is granted, and we would respectfully submit, as we've seen in a lot of orders in a lot of other cases, it should just say the motion is granted as set forth herein because then it would avoid the conflict with regard to things that haven't been resolved.

In addition, at decretal paragraph five there's a retention of jurisdiction which isn't limited with regard to the reservation of rights that we've been discussing on the record, so I just want clarification even if that -- unlike decretal paragraph one, even if decretal paragraph five stays the same, there's an understanding on the record --

THE COURT: Yeah. Well, let me just --

MS. LEVINE: -- that the reservation of jurisdiction --

THE COURT: Let me just say broadly I do not favor provisions in any order that say the Court retains jurisdiction to do A, B, or C. They are unnecessary and confusing. The law sets forth what the Court's jurisdiction is, and that's what applies.

MS. LEVINE: Thank you, your Honor.

THE COURT: Okay. It's now one -- something else, sir?

MR. HACKNEY: Sorry, your Honor. I just -- Stephen Hackney on behalf of Syncora. I wasn't sure if you were going to adjourn for the day or just for a lunch recess, but there was a status conference on the motion pursuant --

THE COURT: Yes. I want to -- I want to contemplate this committee issue and then come back and hear yours. I don't really want to take a lunch break, per se, because that'll take altogether too long.

MR. HACKNEY: Understood.

THE COURT: So just give me 15 minutes to think about this committee issue, come back, give a decision on that, and then we'll get to the Syncora matter.

MR. HACKNEY: Absolutely, your Honor. Thank you.

THE COURT: And we'll be in recess for 15 minutes, please.

THE CLERK: All rise. Court is in recess.

(Recess at 1:00 p.m., until 1:14 p.m.)

THE CLERK: All rise. Court is in session. Please be seated. Case Number 13-53846, City of Detroit, Michigan.

THE COURT: The Court concludes that it is appropriate to grant the motion of the city for the appointment of a committee of retired persons. The Court concludes that the objection that this motion is statutorily premature should be overruled.

As counsel for the city has pointed out, Section 1102(a)(2), which is the section on which the present motion is based, does not require the Court to wait until after the order for relief to appoint a committee. Accordingly, by its plain language, the Court does have the authority to grant this relief, and so that objection is overruled.

It has also been argued here that this motion is on inadequate notice because most, if not all, of the individual retirees were not given notice of this motion. The Court concludes that that objection as well should be overruled. This is simply a procedural motion that does not affect the substantive rights of retirees or any other party, for that matter, and, accordingly, the Court concludes that notice was adequate, and that objection is overruled.

The Court commends and accepts the city's offer to pay the reasonable expenses of the committee and proposes

that all such professional expenses be processed through the fee examiner process.

Regarding the issue of scope, it is an important part of the process to define the scope of the committee, and, as noted a moment ago, the Court concludes that the scope of the committee should be to represent the retirees of the City of Detroit. If the Court has any discretion on the issue of whether to give guidance to the U.S. Trustee as to the issue of adequate representation, the Court concludes in this case that it would not be appropriate to exercise that discretion. The Court, rather, concludes that the issue of who should serve on this committee should be left first to the discretion of the U.S. Trustee, and if there are issues or objections to the composition of the committee, there are procedures in place under the Bankruptcy Code to address that, and those issues will be addressed to the extent raised in due course, so the Court will not make any statement on the record at this time on this issue.

On the issue of adjusting the dates and deadlines that we discussed earlier on in the status conference to reflect the interest of the committee in participating fully in the process, the Court concludes that that interest can be accommodated by granting the committee a period of time after it selects its attorneys to file objections to eligibility and participate in the discovery as set forth in the proposed

dates and deadlines, so the Court will build that extra leeway in for this one participant, so with that on the record, the Court will grant the motion.

I do, however, want to address the representative of the United States Trustee's office one more time. Ma'am, would you take the lectern for me? I feel the need to take one more try at pinning you down regarding how long this is going to take because we have a very aggressive and tight set of dates and deadlines here, and so I think it's important to the process that I give your office a deadline as well.

MS. GIANNIRAKIS: Your Honor, I appreciate that, and I appreciate --

THE COURT: How much time do you need?

MS. GIANNIRAKIS: I don't have a specific answer. All I can say is we will --

THE COURT: If you don't give me a number, I'll make one up. And honestly, if I do it, it's going to be like arbitrary and capricious and clearly erroneous.

MS. GIANNIRAKIS: May I have a moment to consult --

THE COURT: And none of us want that, so -- and I don't know whether you're talking about three days, seven days, fourteen days, twenty-one days. I don't know what you're thinking about.

MS. GIANNIRAKIS: Your Honor, I don't think -- I don't think it's possible to have a committee up and running

in three days, to be honest with you. I mean we will --

THE COURT: I wasn't asking you to. What I'm telling you is I don't know what the right answer is. Do you want time to consult with your colleagues?

MS. GIANNIRAKIS: I do want time to consult with my colleagues. I do know --

THE COURT: All right.

MS. GIANNIRAKIS: I do know that we are concerned with giving parties enough time to respond --

THE COURT: Um-hmm.

MS. GIANNIRAKIS: -- because we are --

THE COURT: Right.

MS. GIANNIRAKIS: -- we do have retirees here who --

THE COURT: Right.

MS. GIANNIRAKIS: -- may not have all the electronic methods that we all have to get information.

THE COURT: Right. Okay. Fair enough. So I will do the status conference on the Syncora motion while you consult with your colleagues, and then we'll pick this back up again.

MS. GIANNIRAKIS: Thank you, your Honor.

THE COURT: Okay. Let's do that.

MR. HACKNEY: Good afternoon, your Honor. Stephen Hackney on behalf of Syncora.

THE COURT: Here's my question for you.

MR. HACKNEY: Yes.

THE COURT: Given the very restricted role that a court plays in either reviewing the decision of a debtor to assume or reject a contract or the decision of a debtor to settle a dispute, why do you need discovery at all?

MR. HACKNEY: So you've anticipated the first part of our argument, your Honor, which was why we filed the statement yesterday to express concerns that we had when you take the proposed order that they have submitted to you and the forbearance agreement and you lay them next to the Orion agreement from the Second Circuit. We have concerns that that order would entail the Court making judicial findings, judicial declarations that could foreclose the rights of third parties, and you see --

THE COURT: Okay. If that's your concern, I will assure you at the outset that my decision will be nothing more than to approve the decision of the city to assume this contract and enter into the settlement or disapprove of it.

MR. HACKNEY: And that assurance is very helpful I would say at the outset. I would still say, though, your Honor, that this is a sizeable transaction that the city is proposing to potentially assume and perform under. Whether they can perform under it is obviously a subject of dispute that I'll bracket, but whether or not this is within the business judgment of both the city and potentially the

service corporation that's also a party to this contract, what claims exactly are being compromised, why they're being compromised now, the likelihood of success, so on and so forth, where the city will get the money to potentially perform under this agreement if it is entitled to perform, bracketing our dispute about that, these are all important questions that are -- unfortunately, they are fact-intensive. And while it is true that the Court must defer to the city's business judgment, to the extent it applies, with a serious question around whether it applies when two of the three parties to the transaction appear to be city officers with duties to the city, the indemnification of the service corporation directors, a number of factual issues, your Honor, that's why we need discovery.

THE COURT: Let's assume for a minute -- let's assume for a minute that for any or all or some of the reasons you have identified the city cannot demonstrate that it has exercised appropriate business judgment. Isn't the answer to deny the motion --

MR. HACKNEY: I believe --

THE COURT: -- rather than grant all this discovery?

MR. HACKNEY: I believe it would be, but I need the discovery in order to inquire into that because remember, your Honor, at Syncora we have been excluded from these negotiations, so we do not know what's happened, what

meetings were involved, who discussed what with whom. And we also have serious questions about the interaction of the forbearance agreement with the COPs and swap structure that I discussed -- that I mentioned earlier, and so there are ambiguities in the way the forbearance agreement works. There are questions about the necessity of the casino revenues.

THE COURT: Okay.

MR. HACKNEY: Yeah.

THE COURT: Let's focus on ambiguities. If the ambiguities are such that it's not in the best interest of the city to assume this contract or if the ambiguities are such that the Court cannot say that the city exercised proper business judgment in proposing to assume the contract, why doesn't it suit your purposes just to argue the motion should be denied?

MR. HACKNEY: I think that's a fair point, your Honor, but it's also very possible that parol evidence may inform the resolution of the ambiguity in a way that leads to informing the Court's decision about whether it should -- whether it should deny the motion or not, whether it's within the business judgment or not. I mean, your Honor, we are talking about the city is purporting to use this --

THE COURT: What I'm having a hard time doing is reconciling your position on the one hand that the Court in

its very limited role here should not make any holdings or findings about what this contract means or does or how it impacts third parties with your interest in discovery on those very questions --

MR. HACKNEY: Well, I think that --

THE COURT: -- unless you have some ulterior motive because of your other litigation.

MR. HACKNEY: And we do not, your Honor. We do not, but we are concerned that the city is going to attempt to wrap itself up in the cloak of the order and say, "Now we're entitled to act consistent with this forbearance agreement," and so we do have serious --

THE COURT: Well, if the motion to assume is granted, it's granted with all of the words and questions about the contract. There's nothing about the assumption process that improves a debtor's position vis-a-vis other parties; right? We all understand that.

MR. HACKNEY: I agree, and, your Honor, you are speaking to the large majority of my concerns here, and so I'm trying to react on my feet. I do appreciate it. I also appreciate that you have considered our statement already given the avalanche of information that's filed every week. I guess what I would say, your Honor, is that we have not had very much insight into what led to the forbearance agreement. There are standards under 365 and 9019 that are applicable,

and to the extent we do have remaining objections notwithstanding the Court's emphasis of its limited role, we don't believe that we can meaningfully prepare for the hearing without at least some discovery into what happened.

THE COURT: All right. I don't see it, so I'm going to ask you to file a response to the motion within 14 days. You can argue that the information that the debtor has placed on the record is not adequate information for the Court to make the judgments that the city is asking the Court to make, and the Court will, of course, take that very seriously, but -- so what I'm proposing is a response by you within 14 days and a hearing on the motion at our first omnibus hearing date on August 21st. Any objection to that?

MR. HACKNEY: I guess subject to our objection to the fact that our request --

THE COURT: Right.

MR. HACKNEY: -- for discovery is overruled.

THE COURT: Yeah. Apart from that. Sir, did you want to be heard on this matter as well?

MR. MARRIOTT: If I might, your Honor.

THE COURT: Go ahead, sir.

MR. MARRIOTT: Your Honor, Vince Marriott, Ballard Spahr. I'm embarrassed to tell you I cannot pronounce the name of my client. It's also about a paragraph --

THE COURT: I'm assuming that's because it's not

English.

MR. MARRIOTT: That's correct. It's also about a paragraph long. The first two words look like Erste Europaische.

THE COURT: Okay. That should be enough for our purposes. Thank you.

MR. MARRIOTT: I like to refer to it as EEPK because that's just easier.

THE COURT: Okay.

MR. MARRIOTT: We filed a preliminary objection to the debtor's motion at Docket Number 246.

THE COURT: I saw that.

MR. MARRIOTT: And at Docket Number 246 you can see the whole name. Just a couple of additions to what Mr. Hackney said. First, the forbearance agreement, as I think all of the papers indicate, isn't simply about -- or the motion isn't simply about assumption of an agreement. It's also about settlement of certain potentially significant claims that the estate might have against the swap parties either as to the validity of the swaps, the amount that's due under them, the perfection or priority of the --

THE COURT: Um-hmm.

MR. MARRIOTT: -- collateral interest in the casino revenues, and, you know, the city in its motion basically deals with those issues by saying, you know, they're

complicated. They're hard. It would take a lot of time to litigate them, and we don't want to. Nevertheless, one of the justifications for the settlement is that it's $300 million in secured debt and, therefore, to the extent the city can get out from under $300 million of secured debt so that the collateralization and the amount of the claim -- all of that is significantly relevant to consideration of the motion.

When it comes to considering whether a settlement agreement is fair and equitable, I think the Court's role is a little more significant than passing on the business judgment of the debtor in assuming or not a contract. In other words, I think the Court's involvement is a little bit more, and the showing that the debtor has to make is a little bit more substantial to approve a settlement than assumption or rejection of a contract. And at least in our view, your Honor, the forbearance agreement is much more a settlement than it is your -- what you normally would see as a contract that a debtor is seeking to assume or reject. And the fact that the debtor is seeking to assume a settlement agreement, although it's called a forbearance agreement, and the basis upon which it is entering into that agreement impacts what may be significant claims and impacts what may be significant issues for unsecured creditors insofar as either the debt or the swap obligations themselves --

THE COURT: Okay. But what I'm hearing from you is the opening paragraph of your argument on August 21st.

MR. MARRIOTT: Yes, but I could make that argument better if I had the opportunity to do some discovery and see the documents that relate to the swap agreement, see the documents that relate to the 2009 collateralization and amendment to the service contract.

THE COURT: Is there any reason to believe that these documents aren't in this data room?

MR. MARRIOTT: They may be in the data room, your Honor, but to get into the data room -- the problem with the data room is it has a lot of things in there that at least at the moment my client is not interested in seeing because the data room may very well contain material nonpublic information that would put my client in a position of perhaps impacting its ability to trade. We don't think any of the documents that we would seek in connection with this motion would be considered material nonpublic information. I think they're public record or could be available through public means, so we would prefer not to have to sign an NDA to get into the data room for a bunch of stuff we don't want. We'd rather make a document request for the limited things we do want that wouldn't create the same issue.

THE COURT: Well, all right. I have to say I still don't see it. Whether the debtor can establish the grounds

for its motion it doesn't seem to me to depend on anything other than what they assert in their motion and what they offer in court. Now, having said that, as a creditor in the case you're entitled to see any document you like that's related to the financial condition of the city. I said that earlier, and I hope the city will cooperate with you in that regard, but let's hold a hearing on this on October -- I'm sorry -- August 21st. Ms. Lennox or whomever, I should ask you if that date is acceptable to you as well.

MR. SHUMAKER: It is, your Honor. Gregory Shumaker, Jones Day.

THE COURT: All right. Is 21 -- excuse me. Is 14 days enough time to file a response?

MR. PEREZ: My name is Alfredo Perez, and I represent FGIC, which is another monoline insurer that's involved in this transaction. Fourteen days is fine if it applies to everybody. Obviously that wouldn't preclude us from arguing that this matter shouldn't be heard at this time, but we can --

THE COURT: Right.

MR. PEREZ: -- respond in 14 days.

THE COURT: Okay. All right. That will conclude that status conference. The Court will enter a scheduling order accordingly. We don't have our U.S. Trustee representatives back here yet. Was there something you

wanted to say, sir?

MR. SHUMAKER: Yes, sir, your Honor. Again, Gregory Shumaker, Jones Day, for the city. Just one thing that I'm -- I'm sorry.

THE COURT: Go ahead, sir.

MR. SHUMAKER: I'm sorry. I'd just note that one of my colleagues asked that we ask that the hearing on the 21st be an evidentiary hearing as opposed to just a preliminary hearing. I know it's a formality, but I thought I should raise it.

THE COURT: An evidentiary hearing at which what evidence would be presented?

MR. SHUMAKER: Well, the evidence in support of the motion.

THE COURT: You mean like a witness evidence or --

MR. SHUMAKER: Right, exactly.

THE COURT: -- or documentary evidence?

MR. SHUMAKER: That's right, your Honor.

THE COURT: Who would the witnesses be?

MR. SHUMAKER: Well, we're not certain of that, but we're sure there will probably be witnesses, including potentially the emergency manager.

THE COURT: If I grant that request, does that open the door to discovery by those witnesses or of those witnesses?

MR. SHUMAKER: Well, I believe part of our -- the presentation of our evidence is going to involve oral testimony from a witness, so we believe there's probably adequate opportunity for cross-examination, but that is what we were planning, your Honor.

THE COURT: All right. Thank you for that information. In light of that -- sir.

MR. SMITH: Your Honor, my name is Bill Smith. I'm counsel -- I've learned to be precise about this -- to U.S. Bank in its role as custodian of the casino revenues and as trustee for the certificates of participation. That makes us a party in interest. It's unclear whether we are a creditor.

The dialogue you just concluded underscores, I think, a relevant factor. This is, as has been suggested to you by other parties, a complex series of transactions. If the debtor proposes --

THE COURT: I remain to be convinced of that.

MR. SMITH: I apologize, your Honor. I'm sorry.

THE COURT: I remain to be convinced of that.

MR. SMITH: We'd be -- well, I'm not certain we oppose the transaction, so I'm not sure I'm the right person to convince you. There are able and capable people who I believe are going to take a yeoman's shot at trying to do that. We believe, in the event that the debtor proposes to present live testimony, it is worthwhile making available to

interested parties at least the documents that surround this transaction, some of which are in the data room, some of which are not. And so our suggestion is, to the degree that you are disposed not to grant discovery, that you at least make -- suggest to the city that it make available to any person interested in opposing the transaction the transaction documents themselves. Past that we have no view on discovery, your Honor.

THE COURT: All right. Well, the city's suggestion that they are proposing evidence at this hearing does cause me to change my mind about discovery and to allow some limited discovery, so by the same August 21st deadline, the Court will ask the city to file a list of witnesses and a list of documents that it intends to offer at the hearing and to provide those documents to the city. In the two weeks following, the Court will order the city to make available for deposition those witnesses who it intends to call. As a result, we won't have our hearing on August 21st. We'll have it on August 28th. Anything further on this matter?

MR. GOLDBERG: What does that do to the response time for the motion?

THE COURT: I want responses within 21 days --

MR. GOLDBERG: Twenty-one --

THE COURT: I'm sorry -- 14 days. Fourteen days. Sorry. Okay. Let's get back to the issue of appointing a

committee of retired persons.

MS. GIANNIRAKIS: Thank you, your Honor. Thank you for allowing us the opportunity.

THE COURT: Sure.

MS. GIANNIRAKIS: I was able to consult with my client during that break, and our concern -- and I'll just voice it briefly -- is --

THE COURT: Uh-huh.

MS. GIANNIRAKIS: -- unlike when we have a list of unsecured creditors, we don't have the body of people that we have to -- well, I guess we do now with 3,500 pages of people to solicit. And although there are parties here that we know are interested and we're going to ask them for information, we don't control how quickly we get those names and that information. We are going to post the questionnaire on the website as soon as it's completed, and that will be done very early, and it'll be available.

THE COURT: What website?

MS. GIANNIRAKIS: On the U.S. Trustee's Detroit website. I don't have that address, but it's the U.S. Trustee's --

THE COURT: U.S. Trustee's website?

MS. GIANNIRAKIS: Right. And it'll be very --

THE COURT: Do you have any objection to posting it on the city's website and the court's website as well?

MS. GIANNIRAKIS: I'm sorry, your Honor.

THE COURT: Do you have any objection to posting it on the city's website and the court's website as well?

MS. GIANNIRAKIS: Do not, your Honor. As much as it could be out there, we are not opposed to that.

THE COURT: Okay.

MS. GIANNIRAKIS: And we also know that in addition to that, we're going to be doing mailings, and we're going to have -- we have a body of constituents here that are probably not all technologically savvy, so we want to be mindful of that.

THE COURT: Um-hmm.

MS. GIANNIRAKIS: So with that said, your Honor, we are going to endeavor to do this as quickly as possible, but we believe we need at least the outline of 21 days.

THE COURT: Um-hmm. All right.

MS. GIANNIRAKIS: And if we can do it sooner, we will do it sooner.

THE COURT: All right. I will set that deadline for you. If there's cause to extend that, you can file a motion, and the Court will, of course, give that every consideration. Anything further for today, or are we done? I just -- I want to make one more statement. Was there something you wanted to say, sir? I didn't mean to cut you off. Okay. Give me one second.

This is quite out of the ordinary, but before we conclude I do want to take a moment to thank the United States District Court and its judges for very generously offering us the use of their space and for adjusting their schedules to allow this and future hearings. I also want to thank the clerk of the District Court, Dave Weaver, and the clerk of the Bankruptcy Court, Katherine Gullo, as well as their staffs for their monumental efforts in arranging and setting up all of this. It was an extraordinary challenge with very short notice, and they met that challenge with grace and with expertise and in the very best spirit of public service. And I'd like to break our decorum and ask you to give them a round of applause. And we are adjourned.

THE CLERK: All rise. Court is adjourned.

(Proceedings concluded at 1:43 p.m.)

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WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett August 9, 2013

Lois Garrett